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97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-406

INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT

MAY 19 (legislative day, MAY 11), 1982.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 2351]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 2351) to authorize the Secretary of Agriculture to implement the agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP), and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 2351, as amended by the Committee, would delegate to the Secretary of Agriculture authority to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP) through the establishment of a program for the inspection, testing, and certification of the special transportation equipment used by United States companies in transporting perishable foodstuffs in international commerce.

The bill would authorize the Secretary to designate appropriate organizations to inspect and test equipment used in the international transportation of perishable foodstuffs and to issue certificates of compliance for equipment that meets the standards under the Agreement. The Secretary would be further authorized to make inspections of facilities and procedures used by, and to require the maintenance of records and the submission of reports by, designated organizations and by persons seeking the certification of equipment. In addition, the Secretary would be authorized to issue regulations and to take such other action as necessary to carry out the Agreement and administer

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the provisions of the bill, including making provision to enforce compliance with the recordkeeping, reporting, and similar requirements established under the authority of the bill.

S. 2351 would also authorize the designated organizations to charge reasonable fees to cover the cost of the inspection and testing of equipment. The fees would be paid to the designated organizations by persons seeking these services. In addition, the Secretary would be authorized to assess a reasonable fee to cover the costs incurred in connection with the issuance of certificates of compliance. These fees would be available to pay the expenses of the Secretary in performing this service.

Finally, the bill would authorize the Secretary of State, with the concurrence of the Secretary of Agriculture, to take such action as is appropriate to assert and protect the rights of the United States under the Agreement. Appropriations of such sums as are necessary to carry out the provisions of the bill, but not more than $100,000 per fiscal year, beginning with fiscal year 1983, would be authorized.

COMMITTEE AMENDMENT

The committee amendment to the text of the bill strikes out all after the enacting clause and inserts a substitute which makes the following two substantive changes.

(1) As introduced, S. 2351 authorizes the Secretary to make inspections of, and to require the submission of reports and the maintenance of records by, persons seeking certification of equipment and organizations designated to test or inspect equipment. The bill does not, however, specifically provide that the Secretary is authorized to take action to enforce these requirements. The amendment would clarify that the Secretary's general authority under the bill to issue regulations specifically authorizes the Secretary to include in any such regulations provisions to enforce the requirements of the bill by suspending or denying the designation of any organization to test or inspect equipment or by denying the issuance of a certificate of compliance, if necessary.

(2) As introduced, the bill authorizes organizations, designated by the Secretary to test or inspect equipment, to charge and collect fees for providing these services. However, only the Secretary may actually issue certificates of compliance and the bill as introduced does not authorize a user fee for this service. The amendment would authorize the Secretary to charge a reasonable user fee to cover the costs incurred in connection with issuing certificates of compliance and would provide that the fees collected be available to pay the expenses of the Secretary in connection with the issuing of certificates.

In addition, the committee amendment makes various technical changes to clarify the bill and to make clerical adjustments. The amendment to the title is for clerical purposes only.

PURPOSE AND NEED

A. Background

The Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP) (hereinafter referred to as the "Agreement") was developed

at the end of World War II under the auspices of the Economic Commission for Europe, one of the United Nations' regional commissions. The interest of the original conferees, all members of the European Community, who first met in 1950, was to investigate ways to prevent the spoilage of perishable foodstuffs moving in Europe.

The United States did not initially participate in the working group meetings. However, with the advent in the mid-1960's of refrigerated and insulated intermodal freight containers, owned and operated by United States flag carriers and operated within the European commercial market, the United States—in particular the Department of Agriculture—became interested in the ongoing dialogue and started to participate in Economic Commission for Europe meetings regarding an agreement then being drafted concerning transportation of perishable foodstuffs.

The Agreement came into force on November 21, 1976, and now has 18 signatories: France, West Germany, Spain, Yugoslavia, Denmark, Austria, Italy, Luxembourg, Sweden, Belgium, the Netherlands, Norway, Finland, the United Kingdom, Bulgaria, the U.S.S.R., the German Democratic Republic, and Morocco. Its primary objective is to establish uniform inspection requirements for the transportation equipment that is used to move perishable foodstuffs across national borders.

In general, the Agreement requires that insulated, refrigerated, or heated transportation equipment used to move perishable foodstuffs into nations that have signed the Agreement be tested, certified, and marked to ensure that such equipment is properly insulated and capable of maintaining a prescribed temperature within the equipment.

Some of the major provisions of the Agreement are as follows:

(1) Article 2 requires that all insulated, refrigerated, or heated equipment utilized to ship perishable foodstuffs into contracting nations meet certain minimum standards set forth in the annex to the Agreement. Under this article, contracting nations are required to take necessary measures to ensure that such equipment is inspected and tested for compliance. Further, each contracting nation is required to recognize the validity of the certificates issued by other contracting nations.

(2) Articles 3 and 5 apply the terms of the Agreement to all transport equipment moving in international commerce by rail, road, or by a combination of the two, or by sea voyage of less than 150 kilometers, into the territory of a contracting nation for unloading. Equipment that has been transported in sea voyages of more than 150 kilometers is exempted from the requirements of the Agreement.

(3) Article 10 authorizes any contracting nation to the Agreement to declare, at the time of signing the Agreement, that it will not apply the standards and requirements of the Agreement to transportation equipment operating within and moving into and out of any of its territory that is situated outside of Europe.

(4) Article 18 establishes the procedure for amending the Agreement and provides that each contracting nation is empowered to veto any proposed amendment.

(For the full text of the Agreement, see Executive B, U.S. Senate, 96th Cong., 1st Sess. (Jan. 23, 1979).)

B. Need for legislation

On March 20, 1980, the Senate unanimously approved United States accession to the Agreement. However, the United States is not yet participating in the Agreement since Congress has not adopted implementing legislation necessary to authorize the Administration to carry out a program for the inspection, testing, and certification of U.S. equipment in accordance with the standards of the Agreement.

Under the Agreement, signatory nations can and frequently do impose national law on containers belonging to citizens of nonsignatory countries. Although American-owned and operated equipment consistently exceeds the standards and specifications under the Agreement, the failure of this country to become a signatory to the Agreement has many times resulted in our equipment being subject to harassment and transportation delays by signatory governments having slight variances with the United States in their specification requirements.

Enactment of this legislation will allow the United States to become a signatory to the Agreement and will thus enable U.S. firms to avoid similar problems in the future in two different ways. First, as a signatory, the United States will be able to invoke article 5 which exempts containers used in sea-crossings greater than 150 kilometers. Since this exemption would apply to all U.S. containers used in shipment from the United States, future harassment by other contracting nations under the Agreement would be unlikely. Second, as soon as the United States becomes a signatory to the Agreement and the Department of Agriculture establishes the testing and certification program authorized in the bill, manufacturers, owners, and operators of U.S. transport equipment may voluntarily have their equipment tested and certified in the United States with the assurance that the U.S.-issued certificates will be recognized by all contracting nations.

Furthermore, under the provisions of Article 18, as a signatory to the Agreement, the United States will also be able to veto any proposed changes to the Agreement that would not be in the best interests of the United States.

C. Purpose of the legislation

The legislation adopted by the Committee delegates to the Department of Agriculture the authority to establish and administer a program for the inspection, testing, and certification of equipment in accordance with the standards under the Agreement. The Committee believes that the Department of Agriculture is the appropriate agency to administer this program due to its current responsibility for, and involvement in, matters relating to the movement of agricultural commodities and its substantial interest in developing and promoting international trade in such commodities. The commodities for which the Agreement establishes equipment temperature standards consist primarily of the following: poultry and rabbits; meat and meat products; fish; dairy products; game; and red offal.

The bill authorizes the Secretary to designate appropriate organizations to test or inspect equipment, but retains in the Secretary the sole authority to issue certificates of compliance. The Committee believes that private organizations capable of performing the necessary inspection and testing are already in existence, and should be used by the Secretary to perform these functions. However, under the Agreement,

certificates of compliance may only be issued by a competent authority of the contracting nation. Thus, this authority is retained in the Department.

Under the bill, the Secretary is also authorized to make inspections of, and to require the submission of reports and maintenance of records by, designated organizations and persons seeking the certification of equipment. This authority will enable the Secretary to require sufficient information to be provided to determine whether to issue a certificate of compliance with respect to particular equipment. By requiring the maintenance of records and by having access to the facilities of persons involved in the program, the Secretary will be able to verify that proper inspection and testing methods are being used and that the inspection or testing reports being sent to the Department are accurate and correct.

The bill also provides authority for the Secretary to issue regulations, and in particular, for the Secretary to include in such regulations provisions for suspending or denying the designation of an organization to inspect or test equipment or to deny the issuance of a certificate of compliance. Although the Committee believes that some authority to enforce the requirements of the bill and the Secretary's regulations is implicit, it desires to clarify that authority. Of necessity, issuance of certificates of compliance by the Secretary will be based on reported results of inspection and testing conducted by other persons. Under these circumstances, the Secretary must be clearly authorized to enforce the requirements for recordkeeping and to review facilities and procedures being followed by the designated organizations and, in some instances, by persons seeking certification.

Finally, the bill provides authority for user fees to be imposed by designated organizations, for inspection and testing services, and by the Secretary, to cover the cost of issuing certificates of compliance. Since this program will primarily benefit the users, the Committee believes that they should pay for the services received.

COMMITTEE CONSIDERATION

I.

Chairman Helms, at the request of the Administration, introduced S. 2351 to authorize the Secretary of Agriculture to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP).

In response to the introduction of this legislation, the Chairman received correspondence from various segments of the industry supporting its adoption. Also, several written statements were submitted to the Committee supporting S. 2351. These letters and statements are set forth in the appendix to this report. The Committee is not aware of any opposition to the adoption of this legislation.

II.

On May 5, 1982, the Committee met in open session to consider S. 2351.

Chairman Helms briefly summarized the history underlying this legislation and explained the provisions of the bill to the Committee.

He pointed out that S. 2351, if enacted, would simply assign to the Secretary of Agriculture the responsibility for implementing the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, which was ratified by the Senate on March 20, 1980.

The Chairman then offered two amendments to S. 2351 for consideration by the Committee members. The amendments would clarify the Secretary's authority to make provision in the regulations issued under the bill to take certain action to ensure that interested parties comply with the requirements in the bill for filing reports and maintaining records and would authorize the Secretary to charge a user fee to cover the cost of issuing certificates of compliance.

In response to a request by the Chairman for comment, the spokesman for the Department of Agriculture expressed strong support for the adoption of the bill and the amendments offered by the Chairman. He further stated that officials at the Department believe that enactment of the legislation would facilitate the export of perishable foodstuffs to the European Community.

The amendments were adopted without objection. The Committee then unanimously agreed by voice vote to report S. 2351, as amended, to the Senate.

SECTION-BY-SECTION ANALYSIS

Short title

Section 1 provides that the Act may be cited as the "International Carriage of Perishable Foodstuffs Act".

Findings and purpose

Section 2 contains the following congressional findings:

(1) As a member of the Economic Commission for Europe of the United Nations, the United States participated in the development of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage;

(2) The Agreement requires that equipment involved in international carriage be inspected, tested, and certified to meet specified standards prescribed in the Agreeemnt;

(3) The Act will make it possible for U.S. equipment to be inspected, tested, and certified under the Agreement; and

(4) The Act will improve the conditions for the movement of perishable foodstuffs in equipment owned or operated by U.S. firms in international carriage, which will serve to protect and promote the expansion of international trade in perishable foodstuffs, and will improve the conditions for the sale of equipment manufactured in the United States for use in international carriage.

Definitions

Section 3 defines pertinent terms used throughout the Act.

The term "Agreement" is defined as the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage, done at Geneva, September 1, 1970.

The term "contracting party" is defined as any country eligible under article 9 of the Agreement that has complied with the provisions of that article.

The term "equipment" is defined as the special transport equipment that meets the definitions and standards set forth in annex 1 to the Agreement, including equipment that is insulated only or insulated and equipped with a refrigeration or heating device.

The term "perishable foodstuffs" is defined as quick deep-frozen and frozen food products specified in annex 2 and food products specified in annex 3 of the Agreement.

The term "international carriage" is defined as the transportation of perishable foodstuffs loaded in equipment, or equipment containing perishable foodstuffs that is loaded onto a rail or road vehicle, in any country and such foodstuffs or equipment is unloaded in another country which is a contracting party, where the transportation is by rail, road, any combination of rail and road, or sea crossing of less than 150 kilometers, if the sea crossing is preceded or followed by one or more land journeys and the same equipment is used for the sea and land journeys without transloading of the goods. In the event that the transportation involves a sea crossing other than as described in the preceding sentence, each land journey involved shall be considered separately under the definition.

The term "United States" is defined as the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

Duties of the Secretary of Agriculture

Section 4 designates the Secretary of Agriculture as the competent authority to implement the Agreement. This section authorizes the Secretary to:

(1) Designate appropriate organizations to inspect and test equipment;

(2) Issue certificates of compliance in accordance with annex 1 of the Agreement;

(3) Prescribe regulations necessary to implement the Agreement and administer the Act, including provisions as necessary for the enforcement of the Act by suspending or denying the designation of an organization to test and inspect equipment, or refusing to issue a certificate;

(4) Make periodic onsite inspections of facilities and procedures used by persons seeking certification of equipment and by organizations designated to inspect and test equipment under the Act;

(5) Require submission of reports and maintenance of records by persons seeking certification of equipment and by organizations designated to inspect and test equipment under the Act;

(6) Inform contracting parties, through the Secretary of State, of all general measures taken in implementing the Agreement; and

(7) Take other action as necessary and appropriate to implement the Agreement and administer the Act.

Duties of the Secretary of State

Section 5 authorizes the Secretary of State, with the concurrence of the Secretary of Agriculture, to take action considered to be appropriate to assert and protect the rights of the United States under the Agreement.

Fees for testing and inspection

Section 6(a) provides that organizations designated by the Secretary under the Act to test and inspect equipment may establish reasonable fees to cover the costs of testing and inspecting. Such fees shall be paid by persons receiving those services directly to the organization carrying out the testing and inspection.

Subsection (b) would authorize the Secretary to charge a reasonable user fee to cover the costs incurred by the Department of Agriculture in connection with issuing certificates of compliance under the authority provided in the Act. This subsection would also provide that the fees collected would be available, without fiscal year limitation, to pay the expenses of the Secretary in connection with issuing the certificates.

Authorization for appropriations

Section 7 authorizes to be appropriated to the Department of Agriculture during fiscal year 1983, and each fiscal year thereafter, such sums as are necessary to carry out the provisions of the Act, but not more than $100,000 in any fiscal year.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 2351, as amended.

I.

S. 2351 would authorize the Secretary of Agriculture to set up and administer a program whereby manufacturers and owners of the special equipment used to transport perishable foodstuffs in international commerce could, on a voluntary basis, have their equipment inspected, tested, and certified as meeting the standards outlined in the Agreement for the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (the "Agreement").

Under this program, the testing or inspection of equipment would be conducted by organizations designated by the Secretary. The Secretary would issue certificates of compliance, and could conduct inspections of facilities and procedures used by, and require the maintenance of records and the submission of reports by, designated organizations and persons seeking the certification of equipment. In addition, the Secretary may issue regulations and take such other actions as necessary to carry out the Agreement and administer the bill. Finally, user fees would be authorized to be charged by designated organizations, to cover the cost of inspection and testing, and by the Secretary, to cover the cost of issuing certificates of compliance.

II.

S. 2351 is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals or businesses. With respect to the provisions for inspection, testing, and certification of equipment, the program is strictly voluntary.

However, certificates of compliance issued by the United States, as a contracting nation to the Agreement, must be honored by other contracting nations to the Agreement. This will substantially benefit U.S. firms that have in the past suffered from having movement of their equipment delayed and harassed solely because the equipment was not certified as meeting the standards of the Agreement.

Implementation of the Agreement will benefit United States exporters of perishable foodstuffs by eliminating delays in the transportation of equipment. Implementation will also benefit manufacturers in the United States of this type of specialized equipment by allowing inspection and testing during the manufacturing process. Certification of U.S. equipment as complying with the Agreement is expected to open up new opportunities for the sale of equipment for use in Europe.

The program would be implemented as soon as the Secretary issues regulations and designates appropriate organizations to conduct testing and inspection. The principal type of equipment that is likely to be involved is the intermodal refrigerated ocean-going freight container.

If they choose to participate, those most likely to be affected are a combined total of approximately 15 major U.S. manufacturers of refrigerated transport equipment, ocean carriers, and organizations with equipment testing or inspection facilities. Indirectly affected would be all parties having an interest in the international shipment of perishable foodstuffs within Europe, particularly U.S. exporters.

III.

Enactment of the bill would not affect the personal privacy of persons seeking the certification of equipment.

IV.

Enactment of the bill will result in only a moderate amount of paperwork for organizations designated to test or inspect equipment and persons seeking the certification of equipment. Manufacturers and owners of refrigerated containers that wish to have their equipment certified would make written application to the Department of Agriculture and include basic specifications of the equipment. Industry organizations that inspect and test equipment would submit inspection and test reports to the Department. Also, testing stations would be required to maintain basic records of tests, and records showing that measuring instruments had been periodically checked for accuracy.

Some additional Federal paperwork will result from enactment of the bill; however, since the program does not impact on substantial numbers of people and is not expected to require more than 1 man-year

of the time to be expended by Department employees, the increase should be minimal. In order to adequately represent the U.S. interests during international meetings involving the Agreement (usually held in Geneva) it will be necessary to develop U.S. position papers, reports of meetings, and related communications through the State Department concerning amendments and application of the Agreement. Paperwork requirements necessary to carry out the Department's responsibilities under the bill would include development and issuance of regulations, development of forms for inspection and test reports, correspondence pertaining to evaluation and approval of industry inspection and testing organizations, issuance and billing for cost of certificates, maintenance of records concerning equipment certified, and periodic program summary reports.

ADMINISTRATION VIEWS

Following are letters from John R. Block, Secretary of Agriculture, dated April 16, 1981, transmitting this legislation to Congress and recommending that the bill be enacted, and from Seeley Lodwick, Under Secretary of Agriculture for International Affairs and Commodity Programs, dated April 7, 1982, transmitting a revised draft of S. 2351 to Congress and recommending its enactment:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 7, 1982.

Hon. GEORGE BUSH,
President of the Senate, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On April 16, 1981, the Department of Agriculture transmitted for the consideration of the Congress a draft bill "To implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be used for such Carriage (ATP), and for other purposes." We enclose herewith a fresh version of that bill which has been revised to clarify the purpose of the proposed legislation and make more specific the provisions implementing the Agreement. We also enclose for your convenient reference, copies of the materials originally transmitted.

The Department recommends that the revised draft bill be enacted.

The revised bill differs from our original proposal principally in that it contains two new sections, one of which sets forth explicit Congressional findings and a declaration of purpose, and the other spells out the manner in which costs for inspection and testing incurred in implementing the Agreement would be defrayed in part by user fees. The revised bill differs from our original proposal also in that the sections have been rearranged, a ceiling of $100,000 has been placed on the authorization for appropriations, and certain definitions have been clarified.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

A similar letter has been sent to the Speaker of the House of Representatives.

Sincerely,

SEELEY G. LODWICK,
Under Secretary for International Affairs and Commodity Programs.

Enclosures.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 16, 1981.

Hon. GEORGE BUSH,
President of the Senate,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Transmitted herewith for the consideration of the Congress is a draft bill to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used For Such Carriage (ATP). That Agreement was developed under the auspices of the Economic Commission for Europe, a subsidiary body of the United Nations. The Senate ratified the Agreement by unanimous vote on March 20, 1980.

The Department of Agriculture recommends the draft bill be enacted.

This bill would provide that the Secretary of Agriculture have prime responsibility within the U.S. Government for administration of the Act and implementation of the Agreement. In essence, the Secretary would set up a program whereby manufacturers and owners of refrigerated ocean-going containers could have their equipment inspected, tested, and certified to the standards in the Agreement, for operation in Europe. Such inspections will be performed by private firms licensed by the Secretary.

The Secretary of State would be authorized to take such actions as required to assert and protect the rights of the United States under the Agreement.

In addition to the draft bill, we have attached a section-by-section analysis which provides further detail and rationale for the bill.

Enactment of this bill would require minimal additional budget authority for the USDA to administer the Act, as indicated in section 6 of the analysis.

The Office of Management and Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

An identical letter has been sent to the Speaker of the House of Representatives.

Sincerely,

JOHN R. BLOCK,
Secretary.

Enclosures.

COST ESTIMATE

I.

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the committee estimates that enactment of S. 2351 will result in moderate costs to the Government, beginning in fiscal year 1983, of not more than $100,000 per fiscal year.

II.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 14, 1982.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2351, the International Carriage of Perishable Foodstuffs Act, as ordered reported by the Senate Committee on Agriculture, Nutrition, and Forestry, May 5, 1982.

This bill implements the agreement on the International Carriage of Perishable Foodstuffs, authorizes the collection of fees to cover the cost of inspecting and testing equipment, and authorizes the appropriation of such sums as necessary up to $100,000 in 1983 and each fiscal year thereafter. Assuming appropriation of the authorized amounts, outlays would be approximately $100,000 per year beginning in fiscal year 1983.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES L. BLUM
(For Alice M. Rivlin, Director).

APPENDIX

The following written statements and letters were submitted to the Committee on Agriculture, Nutrition, and Forestry in connection with the consideration of S. 2351, the International Carriage of Perishable Foodstuffs Act.

STATEMENT OF MARTIN F. FITZPATRICK, JR., DIRECTOR, OFFICE OF TRANSPORTATION, U.S. DEPARTMENT OF AGRICULTURE, SUBMITTED TO THE SENATE AGRICULTURE, NUTRITION AND FORESTRY COMMITTEE, MAY 4, 1982

Thank you, Mr. Chairman. I appreciate the opportunity to appear before you today in support of S. 2351, a bill which would authorize the Secretary of Agriculture to administer the Economic Commission for Europe Agreement on the International Carriage of Perishable Foodstuffs and on the special equipment to be used for such carriage, usually referred to as the ATP.

The primary objective of this agreement is to establish uniform inspection requirements for transportation equipment which moves perishable foodstuffs across national borders. It requires that all temperature-controlled railway cars, trucks, trailers, semitrailers, and intermodal containers used for such transport be inspected, tested, and certified to standards in the ATP. Actual enforcement of the agreement occurs at border crossings, where authorities require either a certificate or certification plate on the vehicle, indicating compliance. From the U.S. viewpoint, the principal type of equipment involved is mechanically refrigerated ocean-going containers.

Under this legislation, the USDA will develop and administer regulations through which private organizations will be approved and authorized to perform testing and inspection of equipment. Fees to recover the costs of inspection and testing would be imposed by and paid directly to the private organizations by those seeking inspection and testing.

These manufacturers, owners, and operators of equipment who need the ATP certification for operation in Europe would apply to the USDA, which would issue certificates based upon specifications and results of inspection and testing of the equipment. Provisions will be made for certification of equipment at time of manufacture, as well as for periodic re-certification of equipment after a period of service.

The USDA function will also include periodic oversight of the inspection and testing organizations to review the technical and administrative aspects of the program. And, the USDA will continue to represent the United States in meetings of the group within the Economic Commission for Europe which has ongoing responsibility for amendments and questions concerning application and implementation of the ATP.

Directly affected by this legislation at present would be a combined total of approximately 15 major U.S. manufacturers of refrigerated transport equipment, ocean carriers, equipment testing facilities, and certifying agencies. Indirectly affected would be all parties having an interest in the international shipment of perishable foodstuffs within Europe, especially U.S. exporters.

Mr. Chairman, although this agreement was approved unanimously by the Senate on March 20, 1980, this implementing legislation must be enacted before the State Department can sign it.

Under the agreement signatory nations may impose national law on containers belonging to citizens of non-signatory countries. Because the United States has not yet become a signatory, its citizens can and have been subject to harassment of signatory governments having slight variances with the U.S. in their specification requirements, not withstanding the fact that U.S. containers exceed the requirements imposed by the agreement.

Once the United States signs the agreement, it can, invoke article 5 which exempts containers engaged in foreign commerce with sea-crossings greater than 150 kilometers. This exemption would apply to all U.S. containers. Future harassment by other nations party to the agreement would then be unlikely. Furthermore, once a signatory, the United States, under article 18 would have veto power over any proposed changes which would not be in its best interest.

As you are aware, Mr. Chairman, one of the highest priorities of Agriculture Secretary Block is to promote the development of new export markets and to increase existing export markets for U.S. agricultural products. By providing this proposed certification program for manufacturers and operators of the equipment involved in the agreement, the U.S. will eliminate an impediment to the sale of perishable foodstuffs in foreign markets, thereby facilitating the growth of U.S. exports.

Thank you, Mr. Chairman.

STATEMENT OF RICHARD E. JOHE, DIRECTOR, GOVERNMENT AFFAIRS, SEA-LAND INDUSTRIES, INC., SUBMITTED TO THE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, U.S. SENATE, ON S. 2351, THE INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS ACT, APRIL 30, 1982

I am Richard E. Johe, Director, Government Affairs, Sea-Land Industries, Inc.

Mr. Chairman, we welcome this opportunity to appear before you and the Senate Subcommittee on Foreign Agricultural Policy to testify in strong support of S. 2351, legislation to implement the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP). The Senate by a 92–0 vote gave its Advice and Consent to this Agreement on March 20, 1980.

As a matter of record, our company and affiliates comprise the transportation group of R. J. Reynolds Industries, Inc., which is headquartered in Winston-Salem, North Carolina. Our liner subsidiary, Sea-Land Service, Inc., is the world's largest container transportation

system, operating 41 U.S.-flag vessels without the aid of government subsidy. With added investment in 81,000 containers and 46,000 chassis, Sea-Land serves 180 ports and cities in more than 50 countries and territories. Total revenues for the Sea-Land group in 1981 were $1.6 billion.

The Agreement, negotiated after the end of World War II under the auspices of the Economic Commission for Europe (ECE), was originally dedicated to the prevention of spoilage of perishable foodstuffs moving within the European community. Toward this end, the Agreement requires that all insulated, refrigerated, or heated transportation equipment used to move perishable foodstuffs in contracting states be uniformly certified as having adequate insulation and therefore capable of maintaining prescribed temperatures.

Since this Agreement was developed prior to the advent of containerization, (which, I am proud to say, Sea-Land Service pioneered) the United States did not participate in the initial working group meetings. However, with the development of the temperature-controlled and insulated intermodal freight containers in the 1960's U.S.-flag carriers became increasingly interested in the European commercial market and therefore, in the ongoing dialogue on ATP. It should be noted that the American-owned and operated equipment consistently meets or exceeds the standards that have been set by this Agreement.

The Agreement came into force in 1976, and now has 18 signatories: France, German Federal Republic, Spain, Yugoslavia, Denmark, Austria, Italy, Luxembourg, Sweden, Belgium, the Netherlands, Norway, Finland, the United Kingdom, Bulgaria, the USSR, German Democratic Republic, and Morocco. Sea-Land serves 14 of the 18 countries either directly or indirectly; however, because signatory nations can impose the Agreement on containers belonging to citizens of non-signatory countries such as the United States, Sea-Land and other U.S.-flag carriers have been subject to harassment and delays simply because the equipment is not ATP certified.

Let me briefly cite an example of such delays. When the French government in 1977 became a signatory of the ATP, it implemented the testing and certification requirements of the ATP by national law. At the same time, it did not implement other articles of the ATP, particularly Article 5, which would have exempted non-signatory countries from rigid ATP inspection requirements. Thus from 1977 to today the French Agricultural Inspectors frequently stop Sea-Land's refrigerated containers at the Port of LeHarve and issue citations of non-compliance with French law. The French police do likewise on French highways. In both cases the reason is the same—the containers are not ATP certified.

As a signatory, the United States will be able to invoke Article 5 of the Agreement which exempts containers engaged in foreign commerce with sea-crossings greater than 150 kilometers, thereby eliminating future delays and disruptions to the transport of U.S. agricultural commodities in France as well as elsewhere in Europe. It will also insure U.S. government participation in the administration of the ATP, a matter of concern to U.S.-flag operators of refrigerated equipment as well as for U.S. producers of perishable commodities.

Finally, it should be noted that the availability of testing and certification services in the United States will benefit U.S. container manufacturing and leasing companies. Such companies, once the U.S. is a signatory, will be able to test and certify equipment in the United States with the assurance that the U.S.-issued certificates will be recognized by all contracting parties.

This Treaty is non-controversial, and has the support of the Departments of State, Agriculture, Transportation, and Commerce. Accordingly, I urge the subcommittee to act favorably and expeditiously to approve this implementing legislation.

Thank you for the opportunity to appear today. I would be pleased to answer any questions.

STATEMENT OF PETER J. LUCIANO, EXECUTIVE DIRECTOR, TRANSPORTATION INSTITUTE, SUBMITTED TO THE SENATE AGRICULTURE, NUTRITION AND FORESTRY COMMITTEE, APRIL 30, 1982

Mr. Chairman, I am Peter J. Luciano, Executive Director of the Transportation Institute and I welcome this opportunity to testify before this distinguished Committee in support of S. 2351—a bill to implement the Agreement on the International Carriage of Perishable Foodstuffs (ATP). As you know, this is companion legislation for the ATP Treaty ratified by the Senate in March 1980. We appreciate your efforts, Mr. Chairman, in spearheading action in the Senate to put the finishing touches on this matter.

The Transportation Institute is a private research and educational organization working to promote a strong maritime capability for the United States. The Institute's 174 member companies are engaged in the nation's foreign and domestic shipping trades, including the inland waterways and the Great Lakes. A number of our member companies are involved in the international transportation of perishable foodstuffs.

ATP was developed under the auspices of the Economic Commission for Europe (ECE), one of the regional commissions of the United Nations. The Agreement became effective in 1976 and has 16 signatories including France, West Germany, Spain, Yugoslavia, Denmark, Austria, Italy, Luxembourg, Sweden, Belgium, the Netherlands, Norway, Finland, the United Kingdom, Bulgaria and the U.S.S.R.

The Agreement applies to the inter-European transportation of perishable foodstuffs and requires that all temperature-controlled railroad cars, trailers and containers be inspected and certified as meeting specified ATP standards. Signatory nations to the Agreement are able to impose ATP requirements on containers owned by citizens of non-signatory countries.

Despite the fact that the American-owned equipment consistently exceeds the ATP standards, our member companies have experienced delays and harassment because the United States is not a signatory nation. Passage of this measure will bring a halt to that obstruction and provide the means by which the United States will participate in the administration of the Convention itself. This will benefit not only the U.S.-flag maritime companies but the U.S. exporters of perishable foodstuffs as well.

The ATP is non-controversial. It is our undertanding that the White House as well as the Department of State, Agriculture, Transportation and Commerce are supporting the Agreement. The Transportation Institute respectfully urges prompt passage of this important legislation.

MARINE CONTAINER EQUIPMENT CERTIFICATION CORP.,
Staten Island, N.Y., April 29, 1982.

Hon. JESSE HELM,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: We have been connected with inspection of perishable cargos, both domestic and foreign for the past 30 years and associated with testing of refrigerated equipment for intermodal container for the past 16 years. We support the Senate Bill S. 2351 which would authorize the Secretary of Agriculture to implement the agreement ATP and other purposes which the bill is intended to carry out.

In our opinion implementation of Bill S. 2351 will serve to standardize the testing and rating procedure so that refrigerated containers and equipment tested and rated according to their insulated values and refrigeration equipment will be compatible in the United States, Europe, and other parts of the world.

The guidance that will be gained from the association of the United States Department of Agriculture will be greatly beneficial to manufacturers, carriers, and other related persons or firms.

During the past five years we have witnessed the loss of perishable cargos amounting to nearly one million dollars, which in our opinion would not have occurred if United States and European countries had been involved in the ATP program and the benefits of its certifying process.

Representation by the United States of America will also help to amend, improve and update the provisions of ATP as will be necessary in the years to come.

Respectfully submitted.

Capt. M. W. ALLEN.

TRUCK TRAILER MANUFACTURERS ASSOCIATION,
Washington, D.C., April 30, 1982.

Re S. 2351.
Hon. RUDY BOSCHWITZ,
Chairman, Foreign Agricultural Policy Subcommittee, Senate Agriculture Committee, Washington, D.C.

DEAR SENATOR BOSCHWITZ: The manufacturers of refrigerated trailers and cargo containers support S. 2351 implementing the agreement on international carriage of perishable foodstuffs. Our members worked for years for the passage of this agreement and eagerly await the establishment of an American certification facility.

I respectfully request that this letter be included in the record of today's hearing.

Sincerely.

DANIEL R. MILLER,
Government Relations Counsel.

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Calendar No. 604

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-422

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT AMENDMENTS OF 1982

MAY 26 (legislative day, MAY 25), 1982.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 2314]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 2314) to amend the Consolidated Farm and Rural Development Act, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 2314, as amended by the Committee, would revise the farm and rural development programs of the Farmers Home Administration in the following respects:

(1) WATER AND WASTE FACILITY LOANS

Insured loans would be authorized at a level of $300 million for each of the fiscal years 1983, 1984, and 1985.

In addition, the bill would establish the rate of interest on water and waste facility loans at not more than 5 percent for facilities required to meet health or sanitary standards in communities where the median family income of persons to be served by the facility is below 80 percent of the statewide nonmetropolitan median family income, and at not more than 7 percent in communities where that income figure is between 80 and 100 percent of the statewide nonmetropolitan median family income.

(2) BUSINESS AND INDUSTRY LOANS

Guaranteed loans would be authorized at a level of $400 million for each of the fiscal years 1983, 1984, and 1985.

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In addition, the program requirements would be tightened: (i) by raising the equity requirement for loan applicants to 20 percent; (ii) by decreasing the maximum level of the Federal loan guarantee to 80 percent; and (iii) by requiring that the Secretary of Agriculture give the highest priority to loan applications for business and industrial enterprises to be located in areas of economic distress and high unemployment.

(3) REAL ESTATE LOANS AND LIMITED-RESOURCE BORROWERS' PROGRAM

Real estate loans would be authorized at a level of $775 million for farm ownership loans ($700 million for insured loans and $75 million for guaranteed loans, with authority to transfer up to 25 percent between categories) and $31 million for water developmnet, use, and conservation loans for each of the fiscal years 1983, 1984, and 1985.

In addition, the bill would require that not less than 15 percent of the insured farm ownership loans be targeted for low-income, limited-resource applicants and that the Secretary require limited-resource borrowers to repay all or a portion of the subsidy on interest rates when they dispose of property obtained with low-interest loans.

(4) OPERATING LOANS

Operating loans would be authorized at a level of $1.60 billion ($1.547 billion for insured loans and $53 million for guaranteed loans, with authority to transfer up to 25 percent between categories) for each of the fiscal years 1983, 1984, and 1985. Not less than 15 percent of the insured farm operating loans would have to be targeted for low-income, limited-resource borrowers.

In addition, the bill would authorize the Secretary to require borrowers to purchase crop insurance, where available, on crops that will be used as substantial security for loans. The bill would also require the Secretary to make a thorough review of the financial status of any applicant who has received FmHA operating loans during each of the 5 years prior to filing the loan application.

(5) EMERGENCY LOANS

Emergency loans would be authorized in amounts as may be necessary to meet the needs resulting from natural disasters during each of the fiscal years 1983, 1984, and 1985. The bill would also authorize the Secretary to require that emergency loan borrowers purchase crop insurance, where available, on crops that will be used as substantial security for loans.

(6) INSURED COMMUNITY FACILITY LOANS

These loans would be authorized at a level of $130 million for each of the fiscal years 1983, 1984, and 1985.

(7) OIL AND GAS LEASING PROCEEDS

Borrowers under both the Consolidated Farm and Rural Development Act and the Emergency Agricultural Credit Adjustment Act of 1978 would be permitted to use the proceeds from the leasing of oil and

gas rights, and other mineral rights, with respect to any real property being used as security for the loans, to make current loan payments.

(8) STUDIES

The Secretary of Agriculture would be directed to conduct three studies, and to report the results to the Senate and the House agriculture committees within 120 days after enactment of the bill, as follows:

(i) A marketing study, which would investigate the practicality of, and methods for, assisting and encouraging FmHA borrowers to improve their knowledge and use of marketing techniques such as futures markets, agricultural options trading, and forward contracting;

(ii) A cost-effective study of on-site water treatment, which would be used to determine the cost-effectiveness of providing individual on-site water and waste treatment systems in rural areas; and

(iii) A variable interest rate study, which would evaluate the potential use of variable interest rates for FmHA loans.

COMMITTEE AMENDMENT

The Committee amendment to the text of the bill strikes out all after the enacting clause and inserts a substitute.

The Committee amendment would authorize Farmers Home Administration loans for each of the fiscal years 1983, 1984, and 1985. The authorization levels adopted by the Committee, set forth below, are the same as in S. 2314, as introduced, except in the case of operating loans, emergency disaster loans, and business and industry loans—

(1) Real estate loans, $818 million including $775 million for farm ownership loans ($700 million for insured loans and $75 million for guaranteed loans) and $31 million for water development, use, and conservation loans ($25 million for insured loans and $6 million for guaranteed loans);

(2) Operating loans, $1.60 million ($1.547 billion for insured loans and $53 million for guaranteed loans);

(3) Emergency disaster loans in such amounts as necessary to meet the needs resulting from natural disasters;

(4) Insured water and waste disposal loans, $300 million;

(5) Insured community facility loans, $130 million; and

(6) Business and industrial loans, $400 million.

In addition, the bill as introduced would terminate the low-income farm ownership loan program, and delete the requirement for targeting at least 20 percent of the insured farm ownership and farm operating loans to low-income, limited-resource borrowers. The Committee amendment would continue the low-income farm ownership loan program and would require targeting of at least 15 percent of the insured farm ownership and farm operating loans for low-income, limited-resource borrowers.

Finally, the Committee amendment includes additional provisions which would—

(1) Establish interest rates for certain water and waste facility loans at not more than 5 percent for communities where the median family income is below 80 percent of the statewide nonmetropolitan median family income, and at not more than 7 per-

cent for communities where that income figure is between 80 and 100 percent;

(2) Tighten loan requirements under the business and industry loan program by (i) raising the equity requirement for loan applicants to 20 percent, (ii) decreasing the maximum level of the Federal loan guarantee to 80 percent, and (iii) requiring the Secretary of Agriculture to give the highest priority to loans in areas of economic distress and high unemployment;

(3) Require that low-income, limited-resource borrowers of farm ownership loans repay the interest subsidy when they dispose of property obtained with such loans;

(4) Authorize the Secretary to require that borrowers of farm operating and emergency loans purchase crop insurance, where available, on crops used as security for the loans;

(5) Require the Secretary to review the financial status of any applicant who has received FmHA operating loans during each of the previous 5 years to determine the prospects for the applicant to graduate to private commercial credit sources in subsequent years;

(6) Permit FmHA borrowers to use the proceeds from the leasing of oil and gas rights, and other mineral rights, with respect to any land being used as security for the loans, to make current loan payments; and

(7) Direct the Secretary to conduct three studies and report the results to the Senate and House agriculture committees within 120 days after enactment of the bill as follows: (i) a study to investigate the practicality of, and methods of, assisting and encouraging FmHA borrowers to improve their knowledge and use of various marketing techniques; (ii) a study to determine the cost-effectiveness of providing individual on-site water and waste treatment systems; and (iii) a study to evaluate the potential for the use of variable interest rates for FmHA loans.

The Committee amendment to the title of the bill is technical and conforming in nature.

Purpose and Need

A. BACKGROUND

The Farmers Home Administration (FmHA) is the agency within the Department of Agriculture that is responsible for providing credit to farmers and other rural Americans who are unable to meet their credit needs through commercial credit sources. Generally, FmHA is the lender of last resort for America's farmers.

The FmHA loan programs, which are principally authorized under the Consolidated Farm and Rural Development Act, have been developed primarily to meet the credit needs of young or less established farmers. However, these programs also provide essential credit services to more established family farmers when commercial credit becomes unavailable to them. In addition to meeting the essential credit needs of many farmers, FmHA also provides technical assistance, in the form of financial counselling and long-term planning, and financial assistance, in the form of subsidized interest rates and other favorable loan terms to some borrowers.

FmHA is also the principal agency in the Department for providing financial assistance to rural communities for installing and improving

water and waste disposal facilities, and other essential community facilities serving rural areas.

FmHA assistance to rural residents goes back over 46 years. During this time, the agency has provided credit (exclusive of housing credit) to farmers and other rural Americans of approximately $48 billion. During the most recent 4-year period (fiscal years 1978–1981), however, FmHA resources have been stretched to their limits. Confronted with rising inflation and production costs, declining farm prices, and periodic shortages of commercial farm credit, farmers with heavy credit demands have turned in increasing numbers to FmHA. More than $26 billion of credit was provided during those 4 years; of that amount, emergency programs accounted for approximately $20 billion. During this same period, the FmHA share of the total farm credit outstanding in the United States rose from 6 to 11.75 percent. The real estate share rose from 4.4 to 8.125 percent, and the nonreal estate share rose from 6.6 to 13.1 percent.

The Farmers Home Administration has indicated that, since the beginning of fiscal year 1982, the availability of private commercial credit for farm purposes has improved, allowing a reorientation of FmHA away from crisis financing. The fiscal year 1982 FmHA budget for farm real estate and farm operating loans, totaling $2.2 billion, includes $500 million in increased funding over fiscal year 1981 available for operating loans for farm production purposes. Seven months into fiscal year 1982, and following the annual peak period of farm production lending in late winter and early spring, more than $500 million of production loan money remained available for additional lending by FmHA, and more than $1 billion remained available from its combined resources of operating, real estate, and emergency loans. During the first 6 months of fiscal year 1982, the agency also assisted more than 15,000 farmers ineligible for further FmHA credit by subordinating its liens on security to other lenders, who then provided those farmers with more than $250 million of additional operating credit for 1982.

B. DESCRIPTION OF PROGRAMS

The principal loan programs administered by FmHA under the Consolidated Farm and Rural Development Act are briefly described in the following paragraphs. Authorization levels for these programs, which are set forth in that Act, expire at the end of fiscal year 1982, unless extended by Congress.

Farm operating loans

These loans provide short to intermediate-term production or chattel credit to family-size farmers and ranchers, usually for terms of 1 to 7 years. Except in the case of certain low-income borrowers and certain loans involving prime farmland, the rate of interest charged on insured loans cannot exceed the cost of money to the Government, plus 1 percent. Operating loans are made to family farmers and ranchers for such purposes as acquiring equipment, livestock, feed, seed, and fertilizer, and otherwise financing farm and home operating needs.

Farm ownership loans

Ownership loans enable family size farmers and ranchers to purchase or expand farms or to refinance farm debt. These loans are secured by real estate mortgages and may not exceed the market value of the land being used as security. Repayment is scheduled based on the

borrower's ability to repay, but may not exceed 40 years. Except in the case of low-income, limited-resource borrowers, and certain loans involving prime farmland, the maximum rate of interest for insured loans cannot exceed the cost of money to the Government, plus 1 percent.

Other real estate loans

These loans are provided for purposes such as conservation and use of soil and water resources on farms, and to restore land in Indian reservation areas to tribal ownership and use.

Emergency disaster loans

Emergency low-interest loans are available to farmers, irrespective of the size of the farm operation, to cover losses, major adjustments, operating expenses, and other essential needs arising from natural disasters. (Authority under this program to provide emergency loan funds to applicants in excess of the actual loss caused by the disaster will be phased out, by statute, by the end of fiscal year 1982.) Loans are scheduled for repayment as rapidly as feasible, based on the borrower's ability to pay, and must be covered by the best security possible. For disasters occurring on or after October 1, 1981, annual interest rates for borrowers who cannot obtain credit elsewhere are not to exceed 8 percent; for insured loans for other borrowers interest is at the prevailing private market rate.

Loans to low-income, limited-resource farmers

Loans under this program are made to help these particular farmers and ranchers improve their farming and ranching operations and earn a better living. Farm ownership loans are provided at an interest rate between 5 percent and one-half the cost of money to the Government, and operating loans are provided at an interest rate 3 percentage points below the cost of money to the Government.

Water and waste disposal and community facility loans

Under this program, loans to public and quasi-public entities, including special purpose districts and nonprofit associations, and to certain Indian tribes, are made to finance the construction, expansion, or improvement of water and waste disposal systems and other essential community facilities. Interest rates are set at the prevailing municipal bond interest rate, except in the case of certain low-income areas where the interest rate may not exceed 5 percent per annum. Loans may be made for periods of up to 40 years.

Business and industry loans

This program provides for the guarantee by FmHA of loans made by private lenders to borrowers to finance business and industrial enterprises, with the objective of providing increased employment and improving the economic and environmental climate in rural communities.

C. PURPOSE OF LEGISLATION

Water and waste disposal loans

The Committee adopted changes to broaden the eligibility for subsidized interest rates in the case of water and waste disposal loans.

Under section 307(a) of the Consolidated Farm and Rural Development Act, the interest rates on loans (other than guaranteed loans) to public bodies and nonprofit associations for water and waste disposal facilities and essential community facilities are not to exceed the cur-

rent municipal bond rate for loans for similar maturities. However, in the case of loans that are for facilities required to meet applicable health or sanitary standards in areas where the median family income of the persons to be served by the facility is below the poverty line prescribed by the Office of Management and Budget, the interest rate is not to exceed 5 percent per annum.

The Committee made two changes in the current law. First, it changed the criteria for the application of the 5 percent interest rate so that communities where the median family income of the persons to be served by the facility is below 80 percent of the statewide nonmetropolitan median family income will be eligible for the 5 percent rate. Second, the Committee established a new interest rate of 7 percent per annum for those communities where the median family income of the persons to be served by the facility is between 80 and 100 percent of the statewide nonmetropolitan median family income.

The Committee believes that a greater number of communities are in need of interest rate assistance than those now eligible under current law. The present definition of a low-income area—median family income below the Office of Management and Budget poverty level—is too restrictive to help many areas in need of assistance. Also, many communities not eligible for the 5 percent interest rate cannot manage the debt service of a loan at the municipal bond rate and therefore must forego needed improvements to their water and waste treatment systems.

The tiered interest rate schedule will allow the deepest subsidies to continue to go to the lowest income communities. The intermediate interest rate will provide assistance to communities with an income level that is higher than the lowest income commmunities but that is still inadequate to meet the financial burden of water and waste treatment projects.

The Committee believes there is a continuing need for Federal assistance in helping rural citizens obtain sanitary water supplies and adequate waste treatment facilities. The changes made by the Committee should help to provide those at a modest increase in cost to the Government.

Business and industry loans

The Committee agreed to reauthorize the business and industry loan program with certain amendments to increase the equity requirement of borrowers, decrease the maximum amount that may be guaranteed by the Government, and target loans to areas of economic distress.

The Administration had requested the elimination of this program based on the view that adequate credit for these loans was available from commercial sources without the Government guarantee.

The Committee believes that a program to allow the Farmers Home Administration to guarantee loans to encourage business enterprises to locate in rural areas should continue. This will help to channel capital from financial centers to rural areas and may save or create jobs for rural residents. However, new criteria to strengthen the quality of these loans is necessary, and steps should be taken to target these loans to areas of economic distress and high unemployment.

Due to past problems in this program, resulting from poor quality loans and a lack of adequate servicing, the Committee believes that a tightening of the eligibility requirements is necessary. Therefore, provisions designed to put a greater responsibility on the lender to service these loans and to require a larger investment on the part of the bor-

rower were adopted. The increase in the equity required, together with the decrease in the maximum Federal guarantee, will provide for better quality loans and ensure greater protection of the Government's interest.

The Committee also adopted a provision to target loans to areas of economic distress. Under the Committee bill, the FmHA is to give the highest priority to applications for business and industrial enterprises that would be located in areas where (1) the median family income for families living in the area is below the poverty line set by the Office of Management and Budget, (2) at least 70 percent of the households in the area have incomes below 80 percent of the nonmetropolitan median family income in the State, or (3) the average unemployment rate for the most recent 24-month period for which data are available was at least 150 percent of the average national rate of unemployment for such period. This provision will ensure that employment opportunities made available by these loans will go to the areas most in need of them. New business ventures will provide sorely needed employment to rural residents, including many farmers who supplement their farm income with off-farm jobs. A Government guarantee should provide the incentive for lenders to provide this capital at rates and terms that many enterprises can manage.

Low-income farm ownership loans

The Committee recommended that the low-income, limited-resource farmer program be continued, but that the Secretary of Agriculture be required to recover all or part of the interest subsidies made available under the program when the borrower disposes of real property purchased with a loan under the program at a profit.

The Administration had requested the elimination of the limited-resource program on the ground that, with adequate loan supervision assistance from FmHA, farmers of limited resources can develop sounder farming operations by working from the beginning on the basis of unsubsidized credit.

The Committee believes that low interest loans are necessary for many young and other limited equity farmers in order to provide them with a reasonable chance of succeeding in their farming operation. Without such subsidies, many farmers would find it impossible to enter farming. Therefore, the Committee continued the low-income, limited-resource farmer program and required that at least 15 percent of the insured farm ownership and operating loan funds be used for borrowers qualifying under this program.

However, the Committee also believes that all (or a portion of) the subsidies granted to purchase real estate under this program should be recaptured by the Government upon the disposal of the property at a profit. Such recapture would decrease the inequities of these subsidies to non-FmHA borrowers and the cost to the Government in maintaining this program. Funds paid back to the Government through this recapture provision would then be available to other eligible borrowers to finance farm operations.

The Committee intends that the Secretary not use this provision unless there is a profit or gain on the disposition of the property.

Operating loans

The Committee adopted provisions to require the Secretary to review the financial status of any borrower who has received operating loans from the FmHA for 5 consecutive years.

The Committee intends that all borrowers, who can do so, graduate to commercial credit at the earliest opportunity. The review mandated by the Committee will require a careful scrutiny of each borrower who has received assistance from FmHA for 5 consecutive years. After 5 years of such assistance, the Committee hopes that the borrower would be able to sustain his or her operation with credit at commercial rates.

The Committee, by this provision, emphasizes that eventual graduation is the goal of all FmHA borrowers and every proper encouragement should be made toward this end based on each individual's circumstances.

Crop insurance

The Committee adopted a provision providing the Secretary of Agriculture with authority to require that borrowers under the farm operating and emergency disaster loan programs purchase crope insurance, where available, on crops growing or to be grown that will be used as substantial security for the loan.

The Committee believes that the Government should be protected, to the extent possible, from losses of security on FmHA loans. On loans where crops are used as collateral, the purchase of crop insurance by the borrower may be required by the Secretary to provide protection against such losses by the Government.

Also, crop insurance can protect the interests of the farmer against crop losses due to natural disasters.

It is the intent of the Committee that, in using this authority, the Secretary should give producers the option of purchasing crop insurance from private or Federal sources.

Oil and gas leases

Although the Committee recognizes that the Secretary already has discretionary authority to allow FmHA borrowers to use the proceeds from the sale or leasing of, and royalty income from, oil and gas rights, and other mineral rights, to make current loan payments on loans secured by the land involved, this practice is not presently permitted.

The Committee believes there is a distinction between leasing proceeds and the proceeds from the sale of, or royalty income from, such mineral rights.

Specifically, the Committee believes that the leasing of mineral rights will not diminish the value of the land and correspondingly will not diminish the security for the loan. Thus, the Committee amendment would require that the Secretary permit borrowers to apply leasing proceeds against current loan payments.

With respect to proceeds from the sale of, or royalties received from, oil and gas rights and other mineral rights, the Committee intends that the Secretary permit borrowers, in individual cases, to apply such proceeds or royalties against current payments when the proceeds or royalties so generated were not taken into account by the FmHA in making the loan and where the security of the loan would not be impaired.

Authorization of insured and guaranteed loan amounts

The Committee adopted loan authorization levels, subject to approval in appropriations Acts, for each of the fiscal years 1983, 1984, and 1985 for the farm and rural development programs operated by the Farmers Home Administration under the Consolidated Farm and

Rural Development Act. For farm real estate loans, the Committee provided $818 million, including $775 million for farm ownership loans and $31 million for water development, use, and conservation loans. The Committee provided $1.60 billion for farm operating loans and such amounts as necessary to meet the needs resulting from natural disasters for emergency disaster loans.

The Committee adopted the authorization levels suggested by the Administration for farmer programs except in the case of the operating loan program and the emergency disaster loan program. The Committee increased the authorization level for the operating loan program from the Administration request of $1.51 billion to $1.60 billion to adequately provide for the needs of farmers. The Committee believes this increase is necessary to ensure that the authorized level is sufficient to cover potential demand during the 3 years provided for in the legislation.

The Administration had also requested that a "cap" of $1.54 billion be placed on the emergency disaster loan program. The Administration believed this amount would be sufficient unless there were major unforeseen needs, which could be dealt with by supplemental authority.

The Committee adopted an authorization for the emergency disaster program of such sums as may be necessary. This is the same as authorized under the current program. The Committee believes that this provision will ensure that farmers who sustain crop losses due to natural disasters can continue to receive adequate credit to maintain their farming operations. This provision will ensure that emergency disaster funds will be available to all geographic areas on an equitable basis and that availability of loans will not be determined by the timing of the disaster. A "cap" placed on the amount of funds to be loaned could place those areas with later growing seasons at a potential disadvantage in receiving assistance under this program.

The Committee also adopted loan authorization levels, subject to approval in appropriations Acts, for each of the fiscal years 1983, 1984, and 1985 of $300 million for insured water and waste disposal loans, $130 million for insured community facility loans, and $400 million for guaranteed industrial development loans.

The Committee adopted the loan authorization levels suggested by the Administration for insured water and waste disposal loans and for community facility loans. These are the same levels as provided for fiscal year 1982 and no revisions in these amounts were deemed necessary.

The loan authorization provided by the Committee for the guaranteed industrial development loan program of $400 million represents an increase over the fiscal year 1982 appropriation figure, which was $300 million. As mentioned previously, the Administration had recommended elimination of this program. However, the Committee believes that the program should be continued and that the amount provided in the Committee bill should be adequate to meet anticipated need under the program.

Loan guarantees issued by the FmHA for business and industrial development in rural areas have supported more than $6 billion of activity since the mid-1970's and have helped to generate a new trend of rural growth reflected in the 1980 census. Continuation of the business and industrial loan guarantee authority and its prudent use are desirable.

Department of Agriculture studies

The Committee bill requires the Secretary of Agriculture to conduct studies on several issues of particular interest.

One study would require the Secretary to look at the practicality of FmHA borrowers using various marketing techniques and at methods of assisting and encouraging FmHA borrowers to improve their knowledge and use of various marketing techniques. The Committee believes that information is needed as to the possibility of borrowers using such marketing techniques as hedging on the futures markets and forward contracting to improve their chances of a profitable farming operation. Data secured from such a study should be helpful in determining whether the use of innovative marketing techniques could provide protection of the Government's resources by "locking in" a reasonable profit for a borrower's farming operating.

Another provision would require the Secretary to study the practicality and cost-effectiveness of providing individual, on site-water and waste treatment systems in rural areas rather than central or community systems. The Committee believes there should be adequate review of these alternatives. The Committee is particularly interested in whether the use of systems other than those traditionally granted assistance by FmHA would be beneficial to borrowers and provide better use of the limited water and waste disposal loan funds for FmHA.

The third study involves the effect of the use of variable interest rates by the FmHA. Other lenders, including the Farm Credit System, are currently using a variable interest rate schedule. The Committee is interested in knowing whether such a system could be adapted to FmHA programs.

Committee Consideration

A. HEARINGS

The Subcommittee on Agricultural Credit and Rural Electrification, chaired by Senator Paula Hawkins, held hearings on S. 2314 on April 15 and 21, 1982. Witnesses representing the Department of Agriculture and the Farm Credit Administration offered testimony during the first session. At the second session, testimony was presented by individuals representing the following organizations: the American Farm Bureau, the National Grange, the National Farmers Union, the American Bankers Association, the Water Quality Association, the Ad Hoc Task Force on Rural Water and Sewer Reform, the Public Securities Association, the Independent Bankers Association, and the National Cotton Council.

Overall, the testimony offered by the Department of Agriculture, the Farm Credit Administration, and the American Bankers Association indicated that adequate credit is still available to rural borrowers; however, interest rates for this credit are high. Department of Agriculture officials pointed out that the long-term picture for American agriculture appears strong, although there is significant financial difficulty in specific geographic regions, especially the South. However, they reported that agricultural borrowers presently maintain a healthy 16.5 percent debt to asset ratio, due in large measure to the increase in land values over the past several years.

In addition, these witnesses stressed the extraordinary efforts already being taken by the Government to meet the credit needs of

farmers, including increased emphasis on the subordination of liens to other lenders to enable borrowers not eligible for FmHA credit to obtain needed financing this year, and liberal use of the broad discretionary authority vested in the Secretary of Agriculture under current law to work with borrowers to provide needed credit and to make adjustments necessay to assist them in meeting their loan obligations.

Testimony was also presented by Department representatives in support of provisions in the Administration bill that would eliminate the business and industry loan program and the limited-resource loan program, and place an authorization ceiling on the emergency disaster loan program.

In response to questions concerning a moratorium on foreclosures or deferral of FmHA loan repayments, Department of Agriculture officials stated the Administration's opposition to such proposals on an across-the-board basis and explained that present authority available to the Secretary is being used to limit foreclosures by working with borrowers on a case-by-case basis.

The Farm Credit Administration witness described the cash flow squeeze facing many farmers due to high interest rates and low commodity prices, but indicated that credit assistance will be available for most farm borrowers this year. He also testified that Farm Credit banks are willing to work with distressed borrowers as long as there is a reasonable prospect for a borrower to recover.

Representatives of farmers' organizations and the American Bankers Association expressed strong support for the farm ownership and farm operating loan programs.

The American Farm Bureau Federation, the National Grange, and the American Bankers Association supported the elimination of the business and industry loan program so that additional emphasis might be placed on the farmers' programs. Written testimony submitted by the Independent Bankers Association strongly supported the continuation of the business and industry loan program and asked that the authorization level be set at $1 billion. In addition, continuation of this program was supported by the National Rural Electric Cooperative Association and the Public Securities Association.

With the exception of the National Farmers Union, no testimony was offered in support of a moratorium on foreclosures by FmAH. Testimony was offered that such a moratorium would create an inequitable situation with non-FmHA borrowers and would not allow for resolution of difficulties based on the merits of each case.

The Water Quality Association testified in support of a review by the FmHA of on-site water treatment systems as a substitute for development of central treatment facilities.

Representatives of the Ad Hoc Task Force on Rural Water and Sewer Reform directed their testimony toward identifying problems with the present statutes and regulations governing the water and waste disposal loan program. Specific concerns that were addressed included the eligibility requirements for subsidized loans, the present grant formula, the need for a project selection system, and the desire for grant money to be awarded for predevelopment and engineering costs.

The representative of the National Cotton Council emphasized the need for the use by the FmHA of all available discretionary authorities to assist farmers and stated support for the subordination actions taken by the FmHA. He added that this would involve the coopera-

tion of the FmHA as well as the Farm Credit System and commercial lenders.

B. COMMITTEE MARKUP

The Committee met in open session on May 5, 1982, to consider S. 2314. After opening remarks by Chairman Helms, Frank W. Naylor, Under Secretary of Agriculture for Small Community and Rural Development, reviewed the Department's perspective on the reauthorization legislation. Senator Hawkins, chairman of the Subcommittee on Agricultural Credit and Rural Electrification, then described the essential findings documented in the hearings held by the Subcommittee. In light of the Subcommittee's findings, Senator Hawkins submitted a compromise proposal for the Committee's consideration.

The compromise proposal included—

(1) An authorization of $400 million for guaranteed business and industrial development loans and provisions to increase the borrower's equity requirement, decrease the maximum Federal guarantee, and require that high priority be given to loans for enterprises in areas of economic distress;

(2) Continuation of the low-income, limited resource borrower program with at least 15 percent of the insured ownership and operating loans to be used for these borrowers and a provision for recapture of the interest subsidy when such a borrower realizes a capital gain on the disposition of real property purchased with the loan;

(3) Authority for the Secretary to require FmHA borrowers to purchase crop insurance where available;

(4) A requirement that the Secretary review the financial status of a borrower if the borrower has received FmHA operating loans during each of the previous 5 years;

(5) Requirements that the Secretary conduct three studies relating to use of better marketing techniques by FmHA borrowers, on-site water and waste treatment systems in rural areas, and use of variable interest rates for FmHA loans;

(6) Continuation of the authorization for emergency disaster loans at such sums as are necessary as a result of natural disasters;

(7) No specific funds for loans for the alcohol production facilities program but report language that funds under the business and industry loan program would be made available for this purpose if the applicants meet the regular requirements for that program;

(8) Changes in the criteria for 5 percent water and waste disposal loans, a new 7 percent interest rate for certain areas under that program, and a project selection system under the program;

(9) Reduction of the amount of loss making a farmer eligible for an emergency loan based on production losses; and

(10) Extension of the authority for loans at commercial interest rates for emergency disaster borrowers who require additional loans for a subsequent year.

By unanimous consent, the proposal made by Senator Hawkins was substituted for the original provisions of S. 2314 and made the markup vehicle for further Committee consideration, with the exception of the portions of the proposal relating to the interest rates for water and waste disposal loans and the project selection system for such loans.

After Under Secretary Naylor discussed the Administration's position on the various parts of the proposal, the Committee approved,

without objection, the portions of the proposal relating to crop insurance, borrower review, and the 3 studies. With regard to the authority of the Secretary to require that FmHA borrowers purchase crop insurance, where available, the Committee agreed to include language in the report stating that the borrower should be free to choose where to purchase that insurance and should not be required to purchase it only from the Federal Crop Insurance Corporation.

The Committee discussed the proposal to provide $400 million in business and industrial development loans, to tighten eligibility requirements, and to target the program to areas of economic distress. Senator Hawkins stated that the proposal was carefully worked out with many of the Senators on the Committee, and it would, in effect, create a rural enterprise zone program. Under Secretary Naylor discussed some of the problems that have arisen under the business and industry loan program and gave the reasons for the Administration's recommendation to eliminate the program. While several members expressed concern that funding this program would conribute to higher deficits, it was pointed out that the proposed level of $400 million is actually a reduction of over $1 billion from the current authorization. After additional discussion, Senator Hawkin's proposal was adopted by voice vote.

Senator Zorinsky discussed the need for some loans for alcohol fuel production facilities and offered language to be included in the Committee report on the bill. Without objection this was agreed to. The Committee recognizes the essential need to develop alternative fuels so that the Nation's reliance on imported oil can be reduced. Therefore, it is the intent of the Committee that a portion of the industrial development loan guarantee authority be set aside for the purpose of financing alcohol production facilities. The Committee notes that $250 million in such loan guarantees were made available for this purpose during the current fiscal year. Further, the Committee intends that applicants for alcohol production facility loans be required to meet the same eligibility and equity requirements that other applicants for loans under the industrial development loan program must meet.

Senator Heflin raised a concern with regard to the limitation on the amount of loans that may be made to a single borrower under the operating loan program and the problems with being able to provide loans to the larger, middle-income farmers. Under Secretary Naylor stated his belief that the FmHA has adequate authority to provide the credit that is needed. For example, the FmHA has extensively used its authority to subordinate its loans to those made by a private commercial lender in order to obtain adequate credit for many of the larger producers who may be moving out of the economic emergency loan program. The Under Secretary agreed to work with Senator Heflin to monitor the situation and determine whether any further changes in the law are necessary.

Senator Leahy offered an amendment to establish the rate of interest on water and waste facility loans at not more than 5 percent for facilities required to meet health or sanitary standards in communities where the median family income of persons to be served by the facility is below 80 percent of the statewide nonmetropolitan median family income, and to set an intermediate interest rate at not more than 7 percent for loans for such facilities in communities where that income figure is between 80 and 100 percent of the statewide nonmetropolitan median family income.

In support of his amendment, Senator Leahy pointed out that the current two-tiered interest rate structure under the water and waste disposal loan program leaves many areas and communities unable to qualify for the 5 percent rate, since their median family income is not below the poverty line, and they are unable to afford the municipal bond rate of interest. It was pointed out that the FmHA has proposed regulations that would provide an additional tiered interest rate that would be half way between the 5 percent rate and the municipal bond rate. In view of this, the Administration opposed the amendment. Senator Leahy argued that the proposed regulation would still not allow enough communities to qualify for the lower interest rates. By roll call vote of 10 to 7, Senator Leahy's amendment was agreed to.

Senator Boren then offered an amendment to require the Secretary of Agriculture to permit borrowers under the farm ownership, farm operating, emergency, and economic emergency loan programs to use the proceeds from the sale or leasing of oil and gas rights, and other mineral rights, with respect to property securing the loan to make prospective payments on the loan. Senator Boren pointed out that many farmers who are also mineral owners are in the anomalous situation of having income from the sale or lease of the mineral rights but are not allowed to apply that income to current payments on an FmHA loan. Some of these farmers are not able to make current payments on the loan with their other income, and thus are in a potentially foreclosable position.

Charles Shuman, Administrator of the Farmers Home Administration, explained the Administration's opposition to the amendment. He pointed out that the Secretary has the authority to do this now, but that the regulations do not permit it because FmHA does not believe that it is proper to allow the proceeds from the sale of assets being used as security for a loan to be applied to current payments. The regulations require that such proceeds must be applied to the principal on the loan.

After additional discussion, the amendment was modified to permit borrowers under the Consolidated Farm and Rural Development Act and the Emergency Agricultural Credit Adjustment Act of 1978 to use the proceeds from the leasing of oil and gas rights, or other mineral rights, with respect to any real property being used as security for a loan, to make current loan payments. The Committee also agreed to include language in the Committee report recognizing that the Secretary has this authority with respect to proceeds from the sale of oil and gas rights and indicating that the Committee expects the Secretary in individual cases to allow borrowers to apply such proceeds against current payments where the proceeds were not taken into account by the FmHA in making the loan and where the security of the loan would not be impaired.

Senator Melcher raised a question concerning the ability of many farmers and ranchers to obtain adequate credit in view of the current economic situation and the limit on the amount of loans that may be made to any one borrower. Senator Huddleston also discussed the extension of the economic emergency loan program.

The Committee then discussed the portions of the proposal offered by Senator Hawkins relating to the low-income, limited-resource borrower program and the emergency loan program. After carefully considering these items, the Committee agreed to the low-income, limited-

resource proposal by a roll call vote of 11 to 6 and to the emergency loan proposal with Chairman Helms and Senator Dole noted in opposition.

Senator Boren discussed the possibility of offering, but did not offer, an amendment to require the Secretary of Agriculture to provide for deferrals of repayment of FmHA farm loans for certain borrowers. Under Secretary Naylor indicated that the Secretary now has discretionary authority to provide a wide range of deferment of principal and interest, reamortization, and carrying of delinquent accounts, and that because of this and the cost of deferring loan payments the Administration is strongly opposed to this or any similar type of amendment.

The Committee discussed, but did not adopt, a proposal to reduce from 30 percent to 25 percent the amount of per unit loss of production that a producer must suffer before becoming eligible for an emergency loan based on a production loss. The Committee understands that the Secretary now has the authority to reduce the 30 percent threshold and the Committee encourages the Secretary to carefully monitor this provision and make any adjustment the Secretary deems appropriate.

After a brief discussion, the provisions of Senator Hawkins' proposal to extend for an additional year the authority to provide subsequent production financing for emergency loan borrowers was withdrawn.

The Committee then adopted an amendment offered by Senator Melcher to increase the authorized level of operating loans by $90 million. Senator Melcher argued that the amendment was necessary to provide a more adequate funding level for operating loans since many believe there will be a credit crunch later this fall. Senator Melcher's amendment was adopted by a roll call vote of 12 to 5.

Without objection, S. 2314, as amended by the Committee, was ordered reported with a recommendation that it pass.

Section-by-Section Analysis

SHORT TITLE

The first section provides that the bill may be cited as the "Consolidated Farm and Rural Development Act Amendments of 1982".

WATER AND WASTE FACILITY LOANS

Section 2 amends selection 307(a)(3)(A) of the Consolidated Farm and Rural Development Act, effective October 1, 1982, by changing the standard of eligibility for 5 percent water and waste facility loans. Under the bill, the 5 percent rate of interest would be applicable to loans for facilities required to meet health or sanitary standards in areas where the median family income of the persons to be served by the facility is below 80 percent of the statewide nonmetropolitan median family income. Currently, the 5 percent interest rate is applicable to areas where the median family income of the persons to be served by the facility is below the poverty line prescribed by the Office of Management and Budget.

This section also establishes an intermediate rate of interest at not more than 7 percent per annum for water and waste facility loans

in areas that do not qualify for the 5 percent interest rate but where the median family income of the persons to be served by the facility is between 80 and 100 percent of the statewide nonmetropolitan median family income.

BUSINESS AND INDUSTRY LOANS

Section 3, clause (1), amends section 310B of the Consolidated Farm and Rural Development Act, effective October 1, 1982, by changing the level of equity investment that the applicant must have in a private business enterprise to be financed with loans guaranteed by FmHA from "not in excess of 10 per centum" to "not less than 20 per centum" before the Secretary of Agriculture may issue a loan commitment for the project.

Clause (1) further amends section 310B to provide that in making loans for business and industrial enterprises, the Secretary must accord the highest priority to applications to finance enterprises that will be located in areas of economic distress. An area of economic distress is defined as an area where: (i) the median family income for families living in the area is below the poverty line prescribed by the Office of Management and Budget; (ii) at least 70 percent of the households have incomes below 80 percent of the nonmetropolitan median family income in the State; or (iii) the average rate of unemployment for the most recent 24-month period for which data are available was at least 150 percent of the average national rate of unemployment for the same period.

Caluse (2) amends section 344 of the Consolidated Farm and Rural Development Act, effective October 1, 1982, to decrease from 90 percent to 80 percent the maximum level of Federal guarantee that the Secretary may make on loans for business and industrial enterprises. This clause also amends the provision in section 344 that directs the Secretary not make a loan for a business or industrial enterprise unless the Secretary determines that no other lender is willing to make the loan and assume 10 percent of any loss on the loan, by raising to 20 percent the level of loss that the Secretary must determine no other lender will assume in connection with making the loan.

LOW-INCOME FARM OWNERSHIP LOANS

Section 4 amends section 310D of the Consolidated Farm and Rural Development Act, effective October 1, 1982, to require the Secretary to provide for the recapture, from borrowers who receive low-income farm ownership loans, of all or a portion of the assistance provided under section 310D when the borrower disposes of the property acquired with the loan funds at a profit. Any assistance rendered under section 310D would constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

REVIEW OF BORROWERS' STATUS

Section 5 amends section 311 of the Consolidated Farm and Rural Development Act, effective October 1, 1982, to require the Secretary of Agriculture to review the financial status of any applicant prior to approving any operating loan if the applicant has received FmHA

operating loans during each of the previous 5 consecutive calendar years. In making this review, the Secretary would consider, among other relevant factors: (i) any record of improvement in the applicant's financial condition during the previous 5 years, if any; and (ii) the likelihood that the extension of additional FmHA credit in the form of operating loans will enable the applicant to obtain sufficient credit from private commercial sources in future years.

AUTHORITY TO REQUIRE PURCHASE OF CROP INSURANCE

Section 6, clause (1), amends the Consolidated Farm and Rural Development Act, effective October 1, 1982, by redesignating section 313 as section 313(a) and by adding a new subsection (b) to section 313 to authorize the Secretary of Agriculture to require, as a condition for making an operating loan, that the borrower obtain crop insurance from any source, where available, on any crops growing or to be grown that will be used as substantial security for such loan.

Clause (2) amends section 324 of the Consolidated Farm and Rural Development Act, effective October 1, 1982, to authorize the Secretary of Agriculture to require, as a condition for making an emergency loan, that the borrower obtain crop insurance from any source, where available, on any crops growing or to be grown that will be used as substantial security for such loan.

OIL AND GAS LEASING PROCEEDS

Section 7(a) amends the Consolidated Farm and Rural Development Act by adding a new section 333A directing the Secretary of Agriculture to permit FmHA farm ownership, farm operating, and emergency loan borrowers to use the proceeds from the leasing of any mineral rights, including but not limited to oil and gas rights, with respect to the land being used as security for the loans, to make current loan payments.

Subsection (b) amends section 204 of the Emergency Agricultural Credit Adjustment Act of 1978 to direct the Secretary of Agriculture to permit FmHA borrowers under the Act to use the proceeds from the leasing of any mineral rights, including but not limited to oil and gas rights, with respect to the land being used as security for the loans, to make current loan payments.

AUTHORIZATION OF INSURED AND GUARANTEED LOAN AMOUNTS

Section 8 amends section 346 of the Consolidated Farm and Rural Development Act, effective October 1, 1982, by deleting subsection (d), which relates only to loan levels for fiscal year 1982, and amending subsection (b) to authorize, to the extent as are provided in advance in appropriation Acts, loans to be insured, or made to be sold and insured, or guaranteed during each of the fiscal years 1983, 1984, and 1985, as follows:

(1) under the Agricultural Credit Insurance Fund—

(A) real estate loans in the amount of $818 million, including $775 million for farm ownership loans ($700 million for insured loans and $75 million for guaranteed loans with authority to transfer 25 percent of these amounts between categories) and $31 million for water development, use, and conservation loans ($25 million for insured loans and $6 mil-

lion for guaranteed loans with authority to transfer 25 percent of these amounts between categories);

(B) operating loans in the amount of $1.60 billion ($1.547 billion for insured loans and $53 million for guaranteed loans with authority to transfer 25 percent of these amounts between categories); and

(C) emergency loans (insured and guaranteed) in such amounts as are necessary to meet the needs resulting from natural disasters; and

(2) under the Rural Development Insurance Fund—

(A) insured water and waste disposal loans in the amount of $300 million;

(B) insured community facility loans in the amount of $130 million; and

(C) guaranteed industrial development loans in the amount of $400 million.

In addition, this section requires that not less than 15 percent of the insured loans authorized for farm ownership and farm operating purposes must be for low-income, limited-resource applicants.

DEPARTMENT OF AGRICULTURE STUDIES

Section 9(a) directs the Secretary of Agriculture to conduct a study of the practicality of, and methods for, assisting and encouraging FmHA borrowers to improve their knowledge and use of various marketing techniques. A copy of the study and the Secretary's recommendations for implementing a program consistent with the findings of the study must be submitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry within 120 days after enactment of this section.

Subsection (b) directs the Secretary of Agriculture to conduct a study of the practicality and cost-effectiveness of providing individual on-site water and waste treatment systems in rural areas, such as septic systems and wells located on the property to be served, rather than extending or developing central or community systems to provide the necessary service. A copy of this study must be submitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry within 120 days after enactment of this section.

Subsection (c) directs the Secretary of Agriculture to conduct a study of the potential impact of using variable interest rates for FmHA loans, including consideration of which index or indices to use to determine the variable interest rate so as to provide the loans at nonsubsidized rates. A copy of the study must be submitted to the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry within 120 days after enactment of this section.

ADMINISTRATION VIEWS

In a letter dated March 12, 1982, John R. Block, Secretary of Agriculture, transmitted to Congress draft legislation to amend the Consolidated Farm and Rural Development Act and strongly recommended that the bill be enacted. That legislation was introduced as S. 2314. The letter from the Secretary of Agriculture reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 12, 1982.

Hon. GEORGE BUSH,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To amend the Consolidated Farm and Rural Development Act." The draft bill would extend certain insured and guaranteed loan programs administered by the Farmers Home Administration (FmHA). It would also delete provisions for limited resources subsidized farm loans.

The Department of Agriculture strongly recommends that this draft bill be enacted.

Section 310D, and related provisions in Sections 307, 316, 333, and 346 of the Act provide for lending at less than cost-of-money interest rates to farm ownership and farm operating applicants of low income. Deletion of these provisions is requested. This action will reduce Government costs for subsidized programs without prejudice to the opportunity of qualified lower-resource farmers to build sound operations with the supervised credit assistance of the Farmers Home Administration. Government costs will be reduced by about $140 million over the lifetime of the loans to limited resource farmers that are provided for in the President's budget for fiscal year 1983. The Administration believes that continued subsidization of limited resource borrowers entails the serious risk of encouraging inefficient production, imprudent risk-taking, and over-extension.

Section 346 of the Act authorizes use of funds for farm, community facility and rural industrialization programs through fiscal year 1982. Authorization for the 3-year period covering fiscal years 1983, 1984 and 1985 is being requested. This request includes a specified ceiling on authority for use of funds for emergency disaster farm loans.

The purpose of this action is to continue the authorization for farm loan programs to assist beginning and established farmers who are unable to obtain sufficient credit through other sources, and to continue the authorization for water and waste disposal and community facility loans to assist rural communities which cannot obtain sufficient credit elsewhere to develop essential community and water and waste facilities.

The Office of Management and Budget advises that enactment of this legislation would be in accord with the Administration's program.

An identical letter has been sent to the Speaker of the House of Representatives.

Sincerely,

JOHN R. BLOCK, *Secretary.*

Enclosures.

A BILL To amend the Consolidated Farm and Rural Development Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective October 1, 1982 the Consolidated Farm and Rural Development Act is amended—

(1) in section 307(a)(3) by deleting the designation "(A)" after "(3)" and by deleting subparagraph (B);

(2) in section 307(a)(6)(B) by deleting clause (viii)

and inserting in lieu thereof "(viii) clause (5) of section 312(a).";

(3) by deleting section 310D;

(4) in section 316(a) by deleting "(1)" after "(a)", by deleting in the second sentence "and loans as provided in paragraphs (2) and (3)" after "except for guaranteed loans", and by deleting paragraphs (2) and (3);

(5) in section 33(c) by deleting "(or, in the case of a borrower under section 310D of this title, the borrower may be able to obtain a loan under section 302 of this title)"; and

(6) in section 346 by deleting subsection (d) and amending subsection (b) to read:

"(b)(1) To the extent and in such amounts as are approved, in advance, in appropriation acts, loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $818,000,000, including $775,000,000 for farm ownership loans of which $700,000,000 may be used for insured loans and $75,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories, and $31,000,000 for water development, use, and conservation loans of which $25,000,000 may be for insured loans and $6,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories;

"(B) operating loans, $1,510,000,000 of which $1,460,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and

"(C) emergency loans, not to exceed $1,540,000,000.

"(2) To the extent and in such amounts as are approved, in advance, in appropriation acts, loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, under the Rural Development Insurance Fund as follows:

"(A) water and waste disposal loans, $300,000,000; and

"(B) community facility loans, $130,000,000."

Cost Estimate

A.

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee has estimated the cost of carrying out the provisions of the bill for fiscal years 1983 through 1987. The Congressional Budget Office provided cost estimates that were the basis for the Committee's projections, and the Committee chose to adopt the cost estimates provided by the Congressional Budget Office.

B.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 20, 1982.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act, the Congressional Budget Office has prepared the attached cost estimate for S. 2314, the Consolidated Farm and Rural Development Act Amendments of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2314.

2. Bill title: Consolidated Farm and Rural Development Act Amendments of 1982.

3. Bill status: As reported by the Senate Committee on Agriculture, Nutrition, and Forestry, May 5, 1982.

4. Bill purpose: The bill amends the Consolidated Farm and Rural Development Act by adding specific levels of obligation authority for the Agricultural Credit Insurance Fund (ACIF) and the Rural Development Insurance Fund (RDIF) for fiscal years 1983, 1984, and 1985.

The bill also sets aggregate principal amount of loans authorized under these two funds and specifies the relationship between insured and guaranteed loans within each program.

In addition, S. 2314 sets interest rates charged on water and waste facilities and community facilities loans at 5 percent for communities whose median income is less than 80 percent of the state nonmetropolitan median and at 7 percent for commmunities whose median income lies within 80 and 100 percent.

The following table summarizes the lending ceilings established for various programs for each fund.

[By fiscal years; in millions of dollars]

	1983	1984	1985
Agricultural credit insurance fund:			
1. Real estate loans:			
Insured farm ownership	700	700	700
Guaranteed farm ownership	75	75	75
Insured water development	25	25	25
Guaranteed water development	6	6	6
Other	12	12	12
Total authorized	818	818	818
2. Operating loans:			
Insured operating	1,547	1,547	1,547
Guranteed operating	53	53	53
Total authorized	1,600	1 600	1,600
3. Emergency natural disaster [1]	2,316	2,471	2,622
Total, ACIF	4,734	4,889	5,040
Rural development insurance fund:			
1. Insured water and sewer loans	300	300	300
2. Guaranteed industrial development loans	400	400	400
3. Insured community facilities loans	130	130	130
Total, RDIF	830	830	830

[1] These are loan volumes estimated by CBO and not specified in the bill.

5. Cost estimate: The projected budget impact of the loan levels authorized in this bill, which reflects only net defaults and the on-budget impact of interest subsidies, is summarized below. The costs of this bill fall within budget functions 350 and 450.

[By fiscal years; in millions of dollars]

	1983	1984	1985	1986	1987
ACIF (function 350):					
Estimated authorization levels	281	303	278	95	221
Estimated outlays	−1	38	71	95	221
RDIF (function 450):					
Estimated authorization levels	−1	10	28	48	58
Estimated outlays	4	1	14	32	49

Estimated authorization levels are the result of accrued and unpaid interest expenses on certificates of beneficial ownership and the cost of interest subsidies to the two funds. Since both funds generate considerable cash repayments from prior activity, CBO expects that the authorization levels shown above will be offset in the unified budget by these repayments.

The budget impact of the FmHA loan programs is significantly reduced by the sale of assets (in the form of certificates of beneficial ownership) to the Federal Financing Bank, an off-budget agency. As a result, approximately $15.5 billion in loan disbursements authorized by this bill will not be reflected as outlays in the unified federal budget. Estimated off-budget outlays resulting from the loan levels authorized in this bill are summarized in the following table.

[By fiscal years; in millions of dollars]

	1983	1984	1985	1986	1987
ACIF	4,581	4,228	3,994	----------	----------
RDIF	30	150	177	329	225
Total	4,611	4,378	4,271	329	225

Guaranteed loans are reflected in the above estimates to the extent that defaults are projected to occur. All guarantees represent contingent liabilities of the federal government. If all guarantees authorized in this bill are utilized, this additional contingent liability would total $1.6 billion.

For many government activities, the costs and budget outlays are identical. However, for loan programs, the costs differ from outlays. The costs of this bill, which include the net cost of all interest subsidies as they accrue and any unrecovered defaults, are summarized separately below.

Total estimated costs:

Fiscal year:	*Millions*
1983	$19
1984	84
1985	143
1986	322
1987	449

6. Basis of estimate: The bill provides authority for the Secretary of Agriculture to make and insure or to guarantee loans up to aggregate principal limits specified. Since both funds are authorized to

liquidate any acquired assets through the Federal Financing Bank (FFB), it is assumed for the purposes of this estimate that these capital transactions have no direct budget impact. The net outlays resulting from the authorized loan programs are the sum of unrecovered defaults and the differences between interest accrued and paid and interest received by FmHA. In estimating outlays, interest paid to the Federal Financing Bank is assumed to be paid annually on the anniversary of the loan. Interest and principal payments on loans made by both funds are assumed to be made annually also.

No budget impact is projected before 1987 from the bill's provision to recapture the interest subsidy from the sale of property acquired by low-income borrowers through the FmHA farm ownership loan program. No sale of property is expected to occur until well after 1987.

The administrative costs of the ACIF and RDIF are covered by separate authorizing legislation within the Farmers Home Administration; therefore, the costs of administering each fund have not been included in the costs directly related to this bill. The administrative costs associated with each program vary with loan activity.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Linwood Lloyd and Howard Conley.

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with subsection 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact associated with the implementation of S. 2314, as amended by the Committee.

The major purpose of the bill is to authorize lending levels for the farm and rural development programs under the Consolidated Farm and Rural Development Act for fiscal years 1983, 1984, and 1985. The major programs for which lending levels are authorized in the bill include farm ownership, farm operating, emergency disaster, business and industry, water and waste disposal, and community facility loan programs.

The bill is not a regulatory measure in the sense of imposing Government standards or significant economic or regulatory responsibilities on the private sector. The programs authorized are loan programs that provide funds in the form of insured or guaranteed loans that would otherwise not be available for farm and ranch operations, rural public facilities, and the establishment of businesses and jobs in rural communities. The persons and communities eligible under these programs include approximately 1 million family farm or ranch operators; an indeterminate number of persons who want to begin farming or ranching but lack the financial resources; approximately 17,000 rural communities with populations of 10,000 persons or less; approximately 1,000 communities with populations between 10,000 and 20,000 persons; and approximately 775 communities with populations between 20,000 and 50,000 persons.

Because the assistance authorized by the bill is provided in the form of loans (either insured or guaranteed), individual applicants must meet certain eligibility requirements and must submit personal financial information. However, the programs are voluntary and the infor-

mation required of applicants is the same kind of information that is required by commercial banks of their loan applicants. The amount of paperwork involved in processing loan applications and servicing loans is comparable to that required by commercial lenders.

The proposed legislation would have very little additional impact on personal privacy since the programs as they presently exist require basically the same information in applications as would be required under the bill.

The impact of specific provisions of the bill is as follows:

WATER AND WASTE FACILITY LOANS

The bill changes the qualifying income level for 5 percent water and waste disposal and community facility loans from the poverty line to 80 percent of the statewide nonmetropolitan median family income of the particuilar State involved. Also, a fixed intermediate interest rate of 7 percent is established for areas where the median family income of the persons to be served by the facility is between 80 and 100 percent of the statewide nonmetropolitan median family income. Rural communities and areas that have a population of not in excess of 10,000 inhabitants for water and waste disposal assistance and 20,000 inhabitants for essential community facility assistance could potentially be affected by the change. It is estimated that approximately 700 rural communities or areas would be affected under the water and waste disposal loan program and 396 communities or areas under the community facility loan program during fiscal year 1983. Based on the projected appropriation levels of $300 million in water and waste loans and $130 million in community facility loans, it is estimated that the economic benefit to persons served by the facilities as a result of being eligible for lower interest rates would be (for each year's loans) approximately $237 million under the water and waste disposal loan program and $7.6 million under the essential community facilities loan program over the 40-year life of the loans.

BUSINESS AND INDUSTRIAL DEVELOPMENT LOANS

The Committee bill would authorize guaranteed industrial development loans of $400 million for each of the fiscal years 1983, 1984, and 1985, tighten eligibility requirements, and target the loans to areas of economic distress. Based on a $400 million authorization level and assuming an average loan size of $1 million, approximately 400 individuals and businesses would be affected by the provisions.

The proposal to require a 20 percent equity investment on the part of the borrower could result in fewer but higher quality applications being filed. Assuming an average loan of $1 million, the increased investment required of each borrower would be approximately $100,000 per loan.

The proposed 80 percent maximum Federal guarantee will increase the exposure and risk of the private lenders participating in the business and industry program. Such lenders may make smaller loans, raise their rates of interest to the borrower, or shorten the terms of repayment in order to protect their investment.

Targeting business and industrial development loans to areas of economic distress would require the Farmers Home Administration to develop additional forms, statistics, and certifications to administer the new eligibility requirements. Also, applications would need to con-

tain additional information relating to the new eligibility requirements, such as unemployment information and average family income.

LOW-INCOME FARM OWNERSHIP LOANS

The bill provides for the recapture of all or part of farm ownership loans under the low-income farm ownership loan program upon disposition of the property acquired with the loan at a profit. This would result in a reduction in costs to the Government but still attain the objective of assisting eligible low-income applicants to acquire a farm or continue farm ownership. Additional regulations would be needed and revisions would be required on a limited number of forms. Approximately 2,000 farm families that are expected to qualify for low-income farm ownership loans each year would be affected by the provision.

REVIEW OF BORROWERS' STATUS

The bill provides for a review of the financial status of applicants for farm operating loans who have applied for and received such loans in each of the previous 5 consecutive calendar years. It is contemplated that every operating loan borrower who has been a borrower for 5 consecutive years will receive a complete financial evaluation before further loans are made. This would have no impact on the program since the FmHA presently requires similar reviews of its operating loan borrowers.

AUTHORITY TO REQUIRE PURCHASE OF CROP INSURANCE

The bill authorizes the Secretary of Agriculture to require that operating and emergency loan borrowers obtain crop insurance where crops growing or to be grown will be used as substantial security for the loan. This will assist the FmHA in protecting its security on loans, as well as ensuring a source of income to the borrowers, in the event of a natural disaster. Present regulations provide for requiring crop insurance where crops are the only security or will be used as substantial security for the loan. Therefore, the provision would have little additional impact on the program.

OIL AND GAS LEASING PROCEEDS

The bill permits a borrower to use the proceeds from the leasing of oil and gas rights, and other mineral rights, to make prospective payments on farm ownership, farm operating, emergency disaster, and economic emergency loans with respect to real property securing the loan. This would result in a greater number of loan accounts being in a current payment status. The provision would require minor revisions in present forms and regulations and is anticipated to affect less than 5 percent, or approximately 13,250, of the farmer program borrowers.

DEPARTMENT OF AGRICULTURE STUDIES

The bill requires certain studies to be conducted within 120 days after enactment of the section: (1) a study of the practicality and methods of assistng and encouraging borrowers to improve their knowledge and use of various marketing techniques; (2) a study of the practicality and cost-effectiveness of providing individual on-site water and waste treatment systems in rural areas rather than central

or community systems, and (3) a study of the potential impact of the use of variable interest rates for loans made or insured under the Consolidated Farm and Rural Development Act.

These studies do not impose any regulatory requirements or responsibilities on the private sector. They are designed to identify areas for improvement in program administration and thereby reduce governmental expenditures. The studies would not require the issuance of additional regulations but would require additional personnel time and expenditures to be completed.

Rollcall Votes

In accordance with paragraphs 7(b) and 7(c) of the rule XXVI of the Standing Rules of the Senate, it is announced that—

(1) A motion was offered to amend the Consolidated Farm and Rural Development Act with respect to interest rates for water and waste disposal loans. The motion would prescribe that interest rates not in excess of 5 percent annually be available to communities with a median family income not in excess of 80 percent of the nonmetropolitan statewide median family income; and interest rates not in excess of 7 percent annually be available in areas where the median family income is between 80 and 100 percent of the statewide nonmetropolitan median family income. The motion was accepted by a 10 to 7 vote as follows:

Yeas: Boschwitz (by proxy), Hawkins, Andrews (by proxy), Huddleston, Leahy, Zorinsky, Melcher, Pryor (by proxy), Boren, and Dixon (by proxy).

Nays: Dole, Hayakawa (by proxy), Lugar (by proxy), Cochran, Jepsen, Hatch (by proxy), and Helms.

(2) A motion was offered to require that 15 percent of insured farm operating and farm ownership loans be made to limited-resource borrowers with the requirement that such borrowers repay the interest subsidy on farm ownership loans when the borrowers dispose of assets obtained with such a low interest loan. The motion was accepted by an 11 to 6 vote as follows:

Yeas: Cochran, Boschwitz (by proxy), Jepsen, Hawkins, Huddleston, Leahy, Zorinsky, Melcher, Pryor (by proxy), Dixon (by proxy), and Heflin (by proxy).

Nays: Dole, Hayakawa (by proxy), Lugar (by proxy), Hatch (by proxy), Boren, and Helms.

(3) A motion was offered to increase the authorization level for operating loans to $1.6 billion for fiscal years 1983, 1984, and 1985. The motion was accepted by a vote of 12 to 5 as follows:

Yeas: Cochran, Boschwitz (by proxy), Jepsen, Hawkins, Andrews (by proxy), Huddleston, Leahy, Zorinsky, Melcher, Pryor (by proxy), Boren, and Dixon (by proxy).

Nays: Dole, Hayakawa (by proxy), Lugar (by proxy), Hatch (by proxy), and Helms.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

* * * * * * *

SEC. 307. (a) * * *

(3) (A) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans), to public bodies or nonprofit associations (including Indian tribes on Federal and State reservations and other federally recognized Indian tribal groups) for water and waste disposal facilities and essential community facilities shall be set by the Secretary at rates not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for such loans, and adjusted to the nearest one-eighth of 1 per centum; and not in excess of 5 per centum per annum for any such loans which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median family income of the persons to be served by such facility is below [the poverty line prescribed by the Office of Management and Budget as adjusted under section 624 of the Economic Opportunity Act of 1964 (42 U.S.C. 2971d)] *80 per centum of the statewide nonmetropolitan median family income* and in other areas as the Secretary may designate where a significant percentage of the persons to be served by such facilities are of low income, as determined by the Secretary*; and not in excess of 7 per centum per annum for any such loans (for such facilities which do not qualify for the 5 per centum per annum interest rate) which are for the upgrading of existing facilities or construction of new facilities as required to meet applicable health or sanitary standards in areas where the median family income of the persons to be served by the facility is between 80 per centum and 100 per centum (both figures inclusive) of the statewide nonmetropolitan median family income.*

(B) Except as provided in paragraph (6), the interest rates on loans (other than guaranteed loans) under section 310D of this title shall be as determined by the Secretary, but not in excess of one-half of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, nor less than 5 per centum per annum.

* * * * * * *

SEC. 310B. * * *

(d) The Secretary may participate in joint financing to facilitate development of private business enterprises in rural areas with the Economic Development Administration, the Small Business Administration, and the Department of Housing and Urban Development and other Federal and State agencies and with private and quasi-public financial institutions, through joint loans to applicants eligible under subsection (a) for the purpose of improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas or through joint grants to applicants eligible under subsection (c) for such purposes, including in the case of loans or grants the development, construction, or acquisition of land, buildings, plants, equipment, access streets and roads, parking areas, utility extensions, necessary water supply and waste disposal facilities, refinancing, service and fees:

(1) No financial or other assistance shall be extended under any provision of sections 304(b), 310B, and 312(b), except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, that is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant, but this limitation shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity of the establishment or such branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(2) No financial or other assistance shall be extended under any provision of sections 304(b), 310B, and 312(b), except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, which is calculated to or likely to result in an increase in the production of goods, materials, or commodities or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities, to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(3) No financial or other assistance shall be extended under any provision of sections 304(b), 310B, and 312(b), except for cases in which such assistance does not exceed $1,000,000 or for cases in which direct employment will not be increased by more than fifty employees, if the Secretary of Labor certifies within 30 days after the matter has been submitted to him by the Secretary of Agriculture that the provisions of paragraph (1) and (2) of this subsection have not been complied with. The Secretary of Labor shall, in cooperation with the Secretary of Agriculture, develop a system of certification which will insure the expeditious processing of requests for assistance under this section.

(4) No grant or loan authorized to be made under this Act shall require or be subject to the prior approval of any officer, employee, or agency of any State.

[(5) No loan commitment issued under this section, section 304, or section 312 shall be conditioned upon the applicant investing in excess of 10 per centum in the business or industrial enterprise for which purpose the loan is to be made unless the Secretary determines there are special circumstances which necessitate an equity investment by the applicant greater than 10 per centum.]

(5) No loan commitment may be issued under this section, section 304, or section 312 unless the applicant has invested, or is committed to invest, as equity an amount of not less than 20 per centum in the business or industrial enterprise for which purpose the loan is to be made.

(6) No provision of law shall prohibit issuance by the Secretary of certificates evidencing beneficial ownership in a block of notes

insured or guaranteed under this Act or title V of the Housing Act of 1949; any sale by the Secretary of such certificates shall be treated as a sale of assets for the purposes of the Budget and Accounting Act of 1921. Any security representing beneficial ownership in a block of notes guaranteed or insured under this Act or title V of the Housing Act of 1949 issued by a private entity shall be exempt from laws administered by the Securities and Exchange Commission, except sections 17, 22, and 24 of the Securities Act of 1933, as amended; however, the Secretary shall require (i) that the issuer place such notes in the custody of an institution chartered by a Federal or State agency to act as trustee and (ii) that the issuer provide such periodic reports of sales as the Secretary deems necessary.

(7) In making, insuring, or guaranteeing loans under this section, the Secretary shall accord highest priority to applications in connection with business or industrial enterprises that are to be located in areas of economic distress. An area is an area of economic distress if—

(A) the median family income for families living in the area is below the poverty line prescribed by the Office of Management and Budget; or

(B) at least 70 per centum of the households in the area have income below 80 per centum of the nonmetropolitan median family income in the State; or

(C) the average rate of unemployment in such area for the most recent twenty-four-month period for which data are available was at least 150 per centum of the average national rate of unemployment for such period.

* * * * * * *

SEC. 310D. (a) The Secretary is authorized to make and insure loans for any of the purposes referred to in clauses (1) through (5) of section 303(a) of this title to farmers and ranchers in the United States who (1) are citizens of the United States, (2) meet the requirements of clauses (2) through (4) of section 302, (3) are unable to obtain sufficient credit under section 302 of this title to finance their actual needs, (4) are owners or operators of small or family farms (including new owners or operators), (5) are farmers or ranchers with a low income, and (6) demonstrate a need to maximize their income from farming or ranching operations. The Secretary is also authorized to make such loans to any farm cooperative or private domestic corporation or partnership that is controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States if all of its members, stockholders, or partners, as applicable, are citizens of the United States and the entity and all such members, stockholders, or partners meet the requirements of clauses (2) through (6) of the preceding sentence.

(b) Each loan made or insured under this section shall be repayable in such installments as the Secretary determines will provide for reduced payments during the initial repayment period of the loan and larger payments during the remainder of the repayment period of the loan.

(c) With respect to borrowers who have received assistance under this section, the Secretary shall provide for the recapture of all or a portion of such assistance rendered upon the disposition of the prop-

erty acquired with the loan funds received by the borrower. Notwithstanding any other provision of law, any such assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

SEC. 311. (a) The Secretary is authorized to make and insure loans under this subtitle to farmers and ranchers in the United States, and to farm cooperatives and private domestic corporations and partnerships that are controlled by farmers and ranchers and engaged primarily and directly in farming or ranching in the United States, subject to the conditions specified in this section. To be eligible for such loans, applicants who are individuals, or, in the case of cooperatives, corporations, and partnerships, members, stockholders, or partners, as applicable, holding a majority interest in such entity, must (1) be citizens of the United States, (2) have either training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operations, (3) be or will become operators of not larger than family farms (or in the case of cooperatives, corporations, and partnerships in which a majority interest is held by members, stockholders, or partners, as applicable, who are related by blood or marriage, as defined by the Secretary, such individuals must be or will become either owners or operators of not larger than a family farm and at least one such individual must be or will become an operator of not larger than a family farm), and (4) be unable to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. In addition to the foregoing requirements of this subsection, in the case of corporations and partnerships, the family farm requirement of clause (3) of the preceding sentence shall apply as well to the farm or farms in which the entity has an operator interest and the requirement of clause (4) of the preceding sentence shall apply as well to entity in the case of cooperatives, corporations, and partnerships.

* * * * * * *

(c) Prior to approving any loan under this subtitle in the case of an applicant who has applied for and received loans under this subtitle in each of the previous five consecutive calendar years, the Secretary shall review the financial status of the applicant, including any record of improvement, if any, in the applicant's financial condition, and the likelihood that providing additional credit under this subtitle will enable the applicant to obtain sufficient credit from private commercial sources in subsequent years.

* * * * * * *

SEC. 313. (a) The Secreary shall make or insure no loan under this subtitle (1) that would cause the total principal indebtedness outstanding at any one time for loans made under this subtitle to any one borrower to exceed, in the case of a loan other than a loan guaranteed by the Secretary, $100,000, or, in the case of a loan guaranteed by the Secretary, $200,000; or (2) for the purchasing or leasing of land other than for cash rent, or for carrying on any land leasing or land purchasing program.

(b) For loans made or insured under this subtitle, the Secretary may require that the borrower obtain crop insurance, where available, on crops growing or to be grown that will be used as substantial security for the loan.

* * * * * * *

SEC. 324. (a)(1) Except as otherwise provided in paragraph (2) of this subsection, no loan made or insured under this subtitle may exceed the amount of the actual loss caused by the disaster or $500,000, whichever is less, for each disaster.

(2) Through September 30, 1982, loans may be made or insured under this subtitle in amounts in excess of the amount of actual loss (as limited under paragraph (1) of this subsection) to applicants who are not able to obtain sufficient credit elsewhere, within the following limits:

(A) Through the end of fiscal year 1980, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $1,500,000;

(B) During fiscal year 1981, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $1,000,000;

(C) During fiscal year 1982, no such loan may be made or insured in an amount that would cause the total unpaid principal indebtedness of the applicant for loans or portions of loans in excess of the amount of actual loss to exceed $500,000; and

(D) No loan or portion of a loan in excess of the amount of actual loss that is for more than $300,000 may be made or insured under this subtitle unless the Secretary determines that the applicant is not able to obtain from a private or cooperative lending agency a loan guaranteed by the Secretary under this subtitle sufficient to finance the applicant's actual needs at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time).

(b) Loans under this subtitle shall be at rates of interest as follows:

(1) For loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, the interest shall be at rates prescribed by the Secretary, but (A) if the applicant is not able to obtain sufficient credit elsewhere, not in excess of 8 per centum per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, not in excess of the rate prevailing in the private market for similar loans, as determined by the Secretary; and

(2) For loans or portions of loans in excess of the amount of the applicant's actual loss caused by the disaster, as limited under subsection (a)(1) of this section, (A) the interest for insured loans shall be at rates prevailing in the private market for similar loans, as determined by the Secretary, and (B) the interest for guaranteed loans shall be at rates agreed on by the borrower and lender, but not in excess of such rates as may be determined by the Secretary.

(c) For guaranteed loans under this subtitle, the Secretary may pay interest subsidies to the lenders for those portions of the loans up

to the amount of the actual loss caused by the disaster, as limited under subsection (a)(1) of this section. Any such subsidy shall not exceed the difference between the interest rate being charged for loans up to the amount of the actual loss, as established under subsection (b)(1) of this section, and the maximum interest rate for guaranteed loans, as established under subsection (b)(2) of this section.

(d) All loans under this subtitle shall be repayable at such times as the Secretary may determine, taking into account the purposes of the loan and the nature and effect of the disaster, but not later than as provided for loans for similar purposes under subtitles A and B of this title, and upon the full personal liability of the borrower and upon the best security available, as the Secretary may prescribe: *Provided*, That the security is adequate to assure repayment of the loans, except that if such security is not available because of the disaster, the Secretary shall (1) accept as security such collateral as is available, a portion or all of which may have depreciated in value due to the disaster and which in the opinion of the Secretary, together with the Secretary's confidence in the repayment ability of the applicant, is adequate security for the loan, and (2) make such loan repayable at such times as the Secretary may determine, not later than as provided under subtitles A and B of this title, as justified by the needs of the applicant: *Provided further*, That for any disaster occurring after January 1, 1975, the Secretary, if the loan is for a purpose described in subtitle B of this title, may make the loan repayable at the end of a period of more than seven years, but not more than twenty years, if the Secretary determines that the need of the loan applicant justifies such a longer repayment period: *Provided further*, That for any direct or insured loan (other than a guaranteed loan) approved under section 321(b) of this title, three years after the loan is made or insured, and every two years thereafter for the term of the loan, the Secretary shall review the loan; and if, based on such review, the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans for similar purposes and periods of time, the borrower shall on request by the Secretary, apply for and accept such non-Federal loan in sufficient amount to repay the Secretary.

(e) Any political subdivision of a State with a population of less than ten thousand inhabitants that, if such subdivision had a population of ten thousand or more inhabitants, would be eligible for a grant under the first title of the Community Emergency Drought Relief Act of 1977 shall be eligible for a grant under the Consolidated Farm and Rural Development Act during any period in which the Community Emergency Drought Relief Act of 1977 is or has been in effect.

(f) For loans made or insured under this subtitle, the Secretary may require that the borrower obtain crop insurance, where available, on crops growing or to be grown that will be used as substantial security for the loan.

* * * * * * *

SEC. 333. In connection with loans made or insured under this title, the Secretary shall require—

(a) the applicant (1) to certify in writing, and the Secretary shall determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates

and terms in the community in on near which the applicant resides for loans for similar purposes and periods of time, and (2) to furnish a written statement showing the applicant's net worth;

* * * * * * *

SEC. 333A. The Secretary shall permit borrowers of farm ownership, farm operating, and emergency loans under this title to use proceeds from the leasing of oil or gas rights, or both, or other mineral rights with respect to real property securing the loan, to make prospective payments on the loan.

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SEC. 344. No loan (other than one to a public body or nonprofit association (including Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups) for community facilities or one of a type authorized by section 306(a)(1) prior to its amendment by the Rural Development Act of 1972) shall be made by the Secretary either for sale as an insured loan or otherwise under section 304(b), 306(a)(1), 310B, 312(b), or 312(c) unless the Secretary shall have determined that no other lender is willing to make such loan and assume [10 per centum] *20 per centum* of any loss sustained thereon. No contract guaranteeing any such loan by such other lender shall require the Secretary to guarantee more than [90 per centum] *80 per centum* of the principal and interest on such loan.

* * * * * * *

SEC. 346. (a) Effective October 1, 1979, the aggregate principal amount of loans under the programs authorized under each subtitle of this title during each three-year period thereafter shall not exceed such amounts as may be authorized by law after the date of enactment of this section. There shall be two amounts so established for each of such programs and for any maximum levels provided in appropriation Acts for the programs authorized under this title, one against which direct and insured loans shall be charged and the other against which guaranteed loans shall be charged, with or without authority for the Secretary to transfer amounts between such categories within a given program for more effective administration.

[(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

[(A) real estate loans, $1,615,000,000, including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories, and $100,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories;

[(B) operating loans, $1,200,000,000 of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and

[(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for applicants other than low-income, limited-resource borrowers.

[(2) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

[(A) insured water and sewer facility loans, $1,000,000,000;

[(B) industrial development loans, $1,500,000,000 of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between categories; and

[(C) insured community facility loans, $500,000,000.]

(b) (1) To such extent as are provided in advance in appropriation Acts, loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows:

(A) real estate loans, $818,000,000, including $775,000,000 for farm ownership loans of which $700,000,000 may be for insured loans and $75,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories, and $31,000,000 for water development, use, and conservation loans of which $25,000,000 may be for insured loans and $6,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories;

(B) operating loans, $1,600,000,000, of which $1,547,000,000 may be for insured loans and $53,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and

(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

Not less than 15 per centum of the insured loans authorized for farm ownership purposes and not less than 15 per centum of the insured loans authorized for farm operating purposes shall be for low-income, limited-resource applicants.

(2) To such extent as are provided in advance in appropriation Acts, loans for each of the fiscal years 1983, 1984, and 1985 are authorized to be insured, or made to be sold and insured, or guaranteed under the Rural Development Insurance Fund as follows:

(A) insured water and waste disposal loans, $300,000,000;

(B) insured community facility loans, $130,000,000; and

(C) guaranteed industrial development loans, $400,000,000.

(c) The Secretary shall develop long-term cost projections for loan program authorizations required under subsection (a) of this section. Each such projection shall include analyses of (1) the long-term costs of the lending levels that the Secretary requests to be authorized under subsection (a) of this section and (2) the long-term costs for increases in lending levels beyond those requested to be authorized, based on increments of $10,000,000 or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and each three-year period thereafter shall be submitted to the House Committee on Agriculture, the House Committee on Appropriations, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Senate Committee on Appropriations at the time the requests for authorizations for those periods are sub-

mitted to Congress. Not later than fifteen days after the date of enactment of this subsection the Secretary shall submit to such committees long-term costs projections covering authorized lending levels for the loan programs for fiscal years 1981 and 1982.

(d) Notwithstanding any contrary provisions of subsection (b) of this section, for fiscal year 1982, loans are authorized to be insured, or made to be sold and insured, as follows:

[(1) From the Agricultural Credit Insurance Fund—

[(A) insured real estate loans for farm ownership purposes, $700,000,000, and

[(B) insured operating loans, $1,325,000,000.

Not less than 20 per centum of the insured loans authorized for farm ownership purposes and not less than 20 per centum of the insured loans authorized for farm operating purposes shall be for low-income, limited-resource applicants.

[(2) From the Rural Development Insurance Fund—

[(A) insured water and waste disposal loans, $300,000,000, and

[(B) insured community facility loans, $130,000,000.]

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EMERGENCY AGRICULTURAL CREDIT ADJUSTMENT ACT OF 1978 (PUBLIC LAW 95-334—AUG. 4, 1978)

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SEC. 201. This title may be cited as the "Emergency Agricultural Credit Adjustment Act of 1978".

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SEC. 204. (a) The Secretary may guarantee under this title the principal and interest on any loan that is made by a legally organized lending agency, and that otherwise meets the purposes and conditions of this title, except that such guarantee shall not exceed 90 percentum of the principal and interest of the loan.

(b) Loans guaranteed under this title shall bear interest at rates to be agreed upon by the lender and borrower. Loans insured under this title shall bear interest at rates determined by the Secretary taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 per centum, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.

(c) Loans insured and guaranteed under this title shall be repayable at such times as the Secretary may determine, taking into account the purpose of, and need for, the loan, but not later than provided for loans for similar purposes under the Consolidated Farm and Rural Development Act: *Provided*, That, if the loan is for a purpose described in subtitle B of such Act, the Secretary may make the loan repayable at the end of a period not exceeding twenty years if the Secretary determines that the need of the applicant justifies a longer repayment period.

(d) No fees or charges shall be assessed by the Secretary for any loan insured or for any guarantee provided under this title.

(e) The Secretary shall permit borrowers of loans under this title to use proceeds from the leasing of oil or gas rights, or both, or other mineral rights with respect to the real property securing the loan, to make prospective payments on the loan.

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